



**CITY OF NEW BRAUNFELS, TEXAS
CITY COUNCIL MEETING**



**CITY HALL - COUNCIL CHAMBERS
550 LANDA STREET**

MONDAY, JULY 23, 2018 at 6:00 PM

Barron Casteel, Mayor

Matthew E. Hoyt, Councilmember (District 4)

Shane Hines, Councilmember (District 1)

Wayne Peters, Mayor Pro Tem (District 5)

Justin Meadows, Councilmember (District 2)

Leah A. García, Councilmember (District 6)

Harry Bowers, Councilmember (District 3)

Robert Camareno, City Manager

MISSION STATEMENT

***The City of New Braunfels will add value to our community
by planning for the future, providing quality services, encouraging
community involvement and being responsive to those we serve.***

AGENDA

CALL TO ORDER

CALL OF ROLL: City Secretary

INVOCATION: Councilmember Matthew E. Hoyt

PLEDGE OF ALLEGIANCE & SALUTE TO THE TEXAS FLAG

**REQUEST ALL PHONES AND OTHER DEVICES BE TURNED OFF, EXCEPT
EMERGENCY ON-CALL PERSONNEL.**

1. MINUTES

- A) Discuss and consider approval of the minutes of the regular City Council meeting of July 9, 2018.

Patrick Aten, City Secretary

2. CITIZENS' COMMUNICATIONS

This time is for citizens to address the City Council on issues and items of concerns not on this agenda. There will be no City Council action at this time.

3. CONSENT AGENDA

All items listed below are considered to be routine and non-controversial by the City Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.

Resolutions & Action Items

- A) Approval of the Mayoral appointment of five individuals to the New Braunfels Partnership Committee for terms ending August 1, 2021.
Patrick Aten, City Secretary
- B) Approval of the Mayoral appointment of two individuals to the Reinvestment Zone No. 1 (TIRZ) Board of Directors and the New Braunfels Development Authority for terms ending May 29, 2020.
Patrick Aten, City Secretary
- C) Approval of a budget amendment in the 2013 Certificates of Obligation Fund, General Fund and a budget transfer in the Golf Fund.
Greg Gutierrez, Financial Analyst
- D) Approval of the renewal of annual contracts with multiple vendors for professional services (IDIQ), purchase of several types of vehicles, cemetery maintenance, landscape maintenance for underdeveloped flood properties and rights-of-way, landscape maintenance for City facilities and parks, road construction work, on-call traffic engineering consulting services, and auditing services.
Jennifer Gates, Buyer
- E) Approval of a change order for E-Z Bel Construction on the Landa Street Project as part of the 2013 Bond Citywide Streets Program.
Jennifer Cain, Capital Programs Manager
- F) Approval of a professional service agreement with LNV, Inc. for engineering design on Union Avenue from Common Street to Austin Street.
Jennifer Cain, Capital Program Manager
- G) Approval of a professional services agreement with MWM Design Group for design on Common Street from Gruene Road to Hanz Drive as part of the 2013 Bond Citywide Streets Program.
Jennifer Cain, Capital Programs Manager
- H) Approval of a contract increase with K Friese and Associates Inc. for professional engineering services to provide third party assistance for development plan review for the City.
Garry Ford, City Engineer

Ordinances

(In accordance with Section 3.10 of the City Charter, a descriptive caption of each ordinance shall be read on two separate days.)

- I) Approval of the second and final reading of an ordinance amending Section 126-185 of the City of New Braunfels Code of Ordinances to

prohibit through truck traffic, establishing one-way traffic, and amending Section 126-346 of the City of New Braunfels Code of Ordinances to restrict parking on one side on Ferguson Street.

Garry Ford, City Engineer

- J) Approval of the second and final reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area N and revise the parking restriction on the 500 block of S. Hill Avenue.

Garry Ford, City Engineer

4. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) Public hearing and first reading of an ordinance amending Chapter 130, Article VI, of the Code of Ordinances, relating to the amendment of land use assumptions and a capital improvements plan and the imposition of water and wastewater impact fees.

Dawn Butrym, NBU CFO

- B) Discuss and consider approval of the Community Development Block Grant Annual Action Plan for Program Year 2018.

Robin Shellard, Interim Grants Administrator

- C) Discuss and consider approval of a resolution for the determination of right-of-way of Schmidt Avenue, identified as a minor arterial in the City of New Braunfels Regional Transportation Plan, between Morningside Drive and IH 35.

Garry Ford, P.E., City Engineer

- D) Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a dance hall with outdoor music in the "C-1" Local Business District on 4.43 acres, Lot 1D-R, Block 1, Walnut Heights Subdivision, Unit 1, which surrounds but does not include the property addressed as 731 N. Walnut Avenue.

Stacy Snell, Planning and Community Development Assistant Director

- E) Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a bed and breakfast facility in the "R-2" Single-Family and Two-Family District on 0.21 acres, on property addressed at 286 S. Market Avenue.

Stacy Snell, Planning and Community Development Assistant Director

- F) Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family dwelling in the "C-1" Local Business District, for property addressed at 508 E. San Antonio Street.

Stacy Snell, Planning and Community Development Assistant Director

5. EXECUTIVE SESSIONS

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

- A) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:
 - Project Rethread
 - Project Connect
- B) Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code
 - Flood Mitigation Properties
- C) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:
 - Gruene Texas 90, LLC

NOTE: The City Council reserves the right to retire into executive session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act (Chapter 551 of the Texas Government Code).

6. RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.

7. ADJOURNMENT

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall on July 18, 2018, at 3:00 p.m.

Patrick Aten, City Secretary

NOTE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 221-4010 at least two (2) work days prior to the meeting so that appropriate arrangements can be made.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. A)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Discuss and consider approval of the minutes of the regular City Council meeting of July 9, 2018.

**MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
REGULAR MEETING OF MONDAY, JULY 9, 2018**

The City Council of the City of New Braunfels, Texas, met in a Regular Session on July 9, 2018, at 6:00 p.m.

City Councilmembers present were:

Present: 6 - Mayor Barron Casteel, Councilmember Shane Hines, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, and Mayor Pro Tem Wayne Peters

Absent: 1 - Councilmember Leah García

City staff present were: City Manager Robert Camareno, City Attorney Valeria Acevedo, City Secretary Patrick Aten, Assistant City Secretary Drew Lyons, Planning and Community Development Director Chris Looney, Planning and Community Development Assistant Director Stacy Snell, Economic Development Manager Victor Garza, City Engineer Garry Ford, and Capital Programs Manager Jennifer Cain.

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:04 p.m. Councilmember Bowers gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

PRESENTATIONS:

- A) Texas Economic Development Council's 2017 Economic Excellence Recognition

Mayor Casteel read the aforementioned caption.

Victor Garza presented the item.

- B) Envision New Braunfels: the Community's Comprehensive Plan

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

- C) Presentation on proposed policies and procedures for obtaining and applying offsets and credits against roadway impact fees.

Mayor Casteel read the aforementioned caption.

Garry Ford presented the item.

1. MINUTES

- A) Discuss and consider approval of the minutes of the regular City Council meeting of June 25, 2018, and the special City Council meetings of June 26 and July 2, 2018.

Mayor Casteel read the aforementioned caption.

Councilmember Hines moved to approve the item. Councilmember Bowers seconded the motion which passed unanimously.

2. CITIZENS' COMMUNICATIONS

This time is for citizens to address the City Council on issues and items of concerns not on this agenda. There will be no City Council action at this time.

Mayor Castell read the aforementioned caption.

No one spoke.

3. CONSENT AGENDA

All items listed below are considered to be routine and non-controversial by the City Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.

Resolutions & Action Items

- A) Confirmation of the appointment of one individual to the City of New Braunfels Civil Service Commission for a term ending August 10, 2021.
- B) Approval of the appointment of one individual to the Landa Park Golf Course Advisory Board for a term ending December 31, 2019.
- C) Approval of the appointment of one individual to the Construction Board of Appeals for a term ending February 24, 2023.
- D) Approval of the appointment of two individuals to the Watershed

Advisory Committee for terms ending April 18, 2021.

- E) Approval of the appointment of one individual to the River Advisory Committee for a term ending December 8, 2020.
- F) Approval of a resolution designating the investment officers for the City of New Braunfels.

Ordinances

(In accordance with Section 3.10 of the City Charter, a descriptive caption of each ordinance shall be read on two separate days.)

- G) Approval of the second and final reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow multifamily (three residential units) on one lot in the "R-2" Single and Two-family District at 509 W. Mill Street.

Mayor Casteel read the aforementioned captions.

Councilmember Hines moved to approve the Consent Agenda. Councilmember Meadows seconded the motion which passed unanimously via roll call vote.

4. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) Discuss and consider approval of the appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2019.

Mayor Casteel read the aforementioned caption.

Patrick Aten presented the item.

Councilmember Hines moved to appoint Emily Lane to the Community Development Advisory Committee. Councilmember Meadows seconded the motion which passed unanimously.

- B) Discuss and consider approval of the appointment of three individuals to the Downtown Board for terms ending May 31, 2021.

Mayor Casteel read the aforementioned caption.

Patrick Aten presented the item.

Councilmember Hines moved to appoint Patrick Winn, Curtis Leonhardt, and Jill Poirier to the Downtown Board. Councilmember Meadows seconded the motion which passed unanimously.

- C) Discuss and consider approval of the solicitation criteria for professional services for Preliminary Engineering on Goodwin Lane/Conrads Lane, Barbarosa (FM 1101 to Alves Ln) and Kohlenberg Road (IH 35 to FM 1101) as part of the proposed 2019 Bond Program.

Mayor Casteel read the aforementioned caption.

Jennifer Cain presented the item.

Jeff Moeller, Tom Turk, and Stephen Hanz spoke on the item.

Councilmember Meadows moved to approve the solicitation criteria for professional services for preliminary engineering to continue with our existing RFQ process, adding items 6 and 7 as presented by staff with the existing 40 points. Mayor Pro Tem Peters seconded the motion.

Mayor Pro Tem Peters moved to amend the motion to not include the average points for firms with no experience. Councilmember Bowers seconded the motion which passed 5-1 with Councilmember Hoyt opposed.

The amended main motion passed unanimously.

- D) Public hearing and first reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area N and revise the parking restriction on the 500 block of S. Hill Avenue.

Mayor Casteel read the aforementioned caption.

Garry Ford presented the item.

No one spoke during the public hearing.

Mayor Pro Tem Peters moved to approve the item with staff recommendations. Councilmember Hoyt seconded the motion which passed unanimously.

- E) Discuss and consider approval of the first reading of an ordinance amending Section 126-185 of the City of New Braunfels Code of Ordinances to prohibit through truck traffic, establishing one-way traffic, and amending Section 126-346 of the City of New Braunfels Code of Ordinances to restrict parking on one side on Ferguson Street.

Mayor Casteel read the aforementioned caption.

Garry Ford presented the item.

Mike Weidner and JoAnn Dietel spoke on the item.

Councilmember Hines moved to approve the item with staff recommendations. Councilmember Bowers seconded the motion which passed unanimously.

<City Council took a break.>

- F) Discuss and consider approval of the installation of speed humps on Tulip Lane.

Mayor Casteel read the aforementioned caption.

Garry Ford presented the item.

Tom Lander spoke on the item.

Councilmember Hoyt moved to approve the item. Mayor Casteel seconded the motion which passed 4-2 with Councilmember Hines and Mayor Pro Tem Peters opposed.

- G) Discuss and consider approval of the installation of speed humps on San Fernando Lane.

Mayor Casteel read the aforementioned caption.

Garry Ford presented the item.

The item failed for lack of a motion.

- H) Discuss and consider approval of the second and final reading of an

ordinance regarding the request for rezoning to apply a Special Use Permit to allow a mini storage facility with an on-site caretaker's residence in the "C-1B" General Business District on 1.43 acres, Lot 1, Block 1, Sam's Place Subdivision, addressed at 1705 S. Walnut Avenue.

Mayor Casteel read the aforementioned caption.

Stacy Snell presented the item.

Chris Van Heerde spoke on the item.

Mayor Pro Tem Peters moved to approve the item with staff recommendations as presented. Councilmember Meadows seconded the motion which passed unanimously via roll call vote.

- I) Discuss and consider acceptance of the petition and approval of a resolution setting a schedule for public hearings regarding the annexation of approximately 154 acres of land located on the southeast corner of the intersection of FM 1044 and Klein Road, including the adjacent Klein Road right-of-way, adjacent to the existing city limits.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

Ron Savage spoke on the item.

Councilmember Meadows moved to approve the item. Mayor Pro Tem Peters seconded the motion which passed unanimously.

5. EXECUTIVE SESSIONS

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

- A) Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Attorney in accordance with Section 551.074 of the Texas Government Code.

The City Council did not recess into Executive session.

NOTE: The City Council reserves the right to retire into executive session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act (Chapter 551 of the Texas Government Code).

6. **RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.**
7. **ADJOURNMENT**

The meeting adjourned at 9:16 p.m.

Date Approved: July 23, 2018

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. A)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Approval of the Mayoral appointment of five individuals to the New Braunfels Partnership Committee for terms ending August 1, 2021.

BACKGROUND / RATIONALE:

Per Section 30-61 of the New Braunfels Code of Ordinances, the Mayor appoints members to the New Braunfels Partnership Committee with City Council approval. The Partnership Committee has 15 members serving three-year staggered terms, where members can reside in the city limits or in the ETJ. The Mayor shall attempt to assure that Wurstfest, the German American Society, and a representative from the Historic Museums Association are represented on the Committee.

Five vacancies were posted in June. The Mayor has appointed the qualifying following individuals for City Council approval:

- Nathalie Swisher*
- Judy Young*
- Nathan Manlove*
- Joyce Yannuzzi*
- Mary Irwin*

Applicant's current & prior service on Boards and Commissions

Nathalie Swisher is a current member of the New Braunfels Partnership Committee.

Judy Young is a current member of the New Braunfels Partnership Committee.

Nathan Manlove is a current member of the New Braunfels Partnership Committee.

Joyce Yannuzzi is a current member of the New Braunfels Partnership Committee.

Mary Irwin is a current member of the New Braunfels Partnership Committee.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends City Council approval of the Mayoral appointment of five individuals to the New Braunfels Partnership Committee for terms ending August 1, 2021.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. B)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Approval of the Mayoral appointment of two individuals to the Reinvestment Zone No. 1 (TIRZ) Board of Directors and the New Braunfels Development Authority for terms ending May 29, 2020.

BACKGROUND / RATIONALE:

Reinvestment Zone No. 1 serves the Creekside Development by facilitating a program of public improvements within the Zone. The ordinance that created the Zone provides that the Mayor appoints the members with City Council approval. The TIRZ has seven members, designated by place number, serving two year staggered terms. Place one through five are selected at-large, place six must be a representative of Comal County, and place seven must be a representative of the Comal Independent School District

The vacancies for two positions (places four and six) were posted February 16 through July 15, 2018.

The following applicants were selected by the Mayor for appointment:

- Marc Hamilton (place four)
- Kevin Webb (incumbent, place six)

Applicant's current & prior service on Boards and Commissions

Marc Hamilton currently serves on the Community Development Advisory Committee.

Kevin Webb currently serves on the TIRZ as the Comal County representative.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the Mayoral appointment of two individuals to the Reinvestment Zone No. 1 (TIRZ) Board of Directors and the New Braunfels Development Authority for terms ending May

29, 2020.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. C)

Presenter/Contact

Greg Gutierrez, Financial Analyst
(830) 221-4398 - ggutierrez@nbtexas.org

SUBJECT:

Approval of a budget amendment in the 2013 Certificates of Obligation Fund, General Fund and a budget transfer in the Golf Fund.

BACKGROUND / RATIONALE:

2013 Certificates of Obligation - A budget amendment is necessary to more reflect the transportation Enhancements Project for the Westside Pedestrian Improvements. In February 2016, City Council approved a resolution for the City to enter into a Local Project Advance Funding Agreement (LPAFA) with the Texas Department of Transportation (TXDOT) for the development, design, and construction of sidewalk improvements, pedestrian ramps, crosswalks, and signage in various locations near Lone Star Elementary. As part of the LPAFA, which is written as a reimbursement agreement, the cost participation breakdown requires that the city pay for all construction cost up-front but shall be able to submit for reimbursement of funds up to 80% of the total construction cost. To accurately account for the full project cost a budget amendment is needed. There is no direct financial impact from the increase, as these funds will be fully reimbursed.

Budget Amendment - 2013 Certificates of Obligation

Increase: *Expenditures - \$180,507*

General Fund - A budget amendment is necessary in the General Fund within the capital allocation for the Police Department and Planning Division. At the adoption of the FY 2017-18 Budget, the extent of the repairs and improvements to the Police Department building was still unknown. While majority of the expenditures are budgeted in the capital improvement funds, this amendment establishes the budget authority for the unbudgeted portion.

The Planning Division recently replaced a plotter. The original plotter was too expensive to repair and. This type of equipment is eligible to be replaced with the recently approved technology development fees; therefore, there is an offsetting revenue to support this unbudgeted expenditure. This amendment established the budget authority to support this unbudgeted expenditure.

Budget Amendment - General Fund

Increase: *Police Department Capital Expenditures - \$280,000*

Increase: *Planning and Community Development Capital Expenditures - \$17,280*

Golf Fund - A budget transfer is necessary in the Golf fund within the operating expenditures allocation to cover the remaining merchandise expenditures through the end of the fiscal year. The

additional purchases of merchandise have an offsetting impact to revenues. Savings in the employee allocation are available to support the transfer as the golf course has experienced multiple vacancies throughout the year.

Budget Transfer - Golf Fund

From: Employee Expenditures \$34,000

To: Operating Expenditures \$34,000

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<input checked="" type="checkbox"/>	Yes	Strategic Priorities:	Maintain fiscal stability of City operations
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FISCAL IMPACT:

There is no fiscal impact to the 2013 Certificates of Obligation Fund as the additional funds will be fully reimbursed. The amendment will support a portion of the 80% of construction costs to be submitted for reimbursement.

The General Fund will increase by \$297,280, however staff currently projects that total General Fund Expenditures will still be below budget overall by the end of the fiscal year; therefore, there is no direct impact to fund balance.

There are allocated funds in the Golf Course employee expenditure allocation that are not projected to be spent before the end of the fiscal year, which is why a transfer is recommended as opposed to a budget amendment.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of budget transfer and amendment in the FY 2017-18 Golf Fund and 2013 Certificates of Obligation.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. D)

Presenter/Contact

Jennifer Gates, Buyer

(830) 221-4383 - JGates@nbtexas.org

SUBJECT:

Approval of the renewal of annual contracts with multiple vendors for professional services (IDIQ), purchase of several types of vehicles, cemetery maintenance, landscape maintenance for underdeveloped flood properties and rights-of-way, landscape maintenance for City facilities and parks, road construction work, on-call traffic engineering consulting services, and auditing services.

BACKGROUND / RATIONALE:

On November 14, 2016, the City Council provided consent for a quarterly review and approval of renewals for various annual contracts that occur throughout the course of a fiscal year which are routine in nature and in accordance with the terms and conditions of the associated awarded contracts (which were originally approved by City Council). Quarterly approvals manage staff resources more efficiently as well as ensures compliance with the contracts' terms and conditions. Contract renewals that have any requested modifications, such as a significant increase or decrease in services or costs, will continue to be presented to City Council for individual consideration.

The City Council has previously reviewed and approved the following annual contracts for various goods and services utilized for City operations; the contracts described below require Council authorization for contract renewal. All goods and services have been competitively vetted, and contracts have subsequently been executed on various dates in previous years. All awarded contractors have provided satisfactory performance during the term of their associated contract.

Renewal of Annual Contract for Professional Services (IDIQ):

- Goods/Services Provided: Professional design services provided by qualified engineering firms for various City projects. All awarded contracts are Indefinite Quantity/Indefinite Quantity (IDIQ).
- City Department: Citywide
- Solicitation Method: Request for Qualifications
- Contract Award Date: July 27, 2015
- Awarded Contractors: Alpha Testing, Inc.; Apex Geoscience, Inc.; Arias & Associates, Inc.; Asakura Robinson Company, LLC; Bain Medina Bain, Inc.; Cleary Zimmermann Engineers; D.A. Mawyer Land Surveying, Inc.; Douglas Architects, Inc.; Drash Consultants, LLC; ECM International, Inc.; Encotech Engineering Consultants, Inc.; Freese and Nichols, Inc.; Fugro Consultants, Inc.; Gap Strategies; Gessner Engineering; H.R. Grey; Klotz Associates, Inc.; KSA; M&S Engineering, LLC; McCall & Associates-AIA-Architects; Medina Consulting Company, Inc.; Moeller Ingalls, LLC d/b/a Moeller & Associates; Norris Design; Outlier Engineering; Page; Pape-Dawson Engineers, Inc.; Pawelek & Moy, Inc.; PGAL; Raba Kistner,

Inc.; R-S-C-R, Inc.; RVK; Schrickel, Rollins and Associates; Steinbomer, Bramwell & Vrazel, Architects; Structural Engineering Associates, Inc.; Terracon Consultants, Inc.; Urban Civil, LLC (formerly The Schultz Group, Inc.); Vickrey & Associates, Inc.

- Modified Contract Expiration Date: July 31, 2019; with 1, 1-year renewal option remaining.
- Approximate Annual Cost of Services During Renewal Period: Professional Services occur on an as-needed basis; therefore, costs are developed per project and incorporated within the overall budget for the project.

Approval for staff to release the annual Request for Qualifications for Professional Services (IDIQ) for new firms wishing to submit for the IDIQ will come to City Council on August 13, 2018.

Renewal of Annual Contract for Purchase of Several Types of Vehicles:

- Goods/Services Provided: Purchase of several types of vehicles to include, but not be limited to, Police vehicles, passenger vehicles, vans, pickups, and specialty trucks for the City from manufacturer-authorized dealers.
- City Department: Citywide
- Solicitation Method: Competitive Sealed Proposal
- Contract Award Date: January 23, 2017
- Awarded Contractor(s): Grapevine DCJ, LLC; Griffith Ford Seguin, LLC; and Kahlig Enterprises d/b/a Bluebonnet Motors, Inc. (*primary contractor*).
- Modified Contract Expiration Date: August 31, 2019; with no renewal options remaining
- Approximate Annual Cost of Services During Renewal Period: Purchases occur based on a replacement schedule or in conjunction with new positions; therefore, the cost is incorporated into the appropriate replacement fund and/or departmental capital budget. City has spent a total of \$681,930 to date in FY 2017-18.

Renewal of Annual Contract for Cemetery Maintenance:

- Goods/Services Provided: General caretaker and landscape maintenance services for Comal Cemetery and New Braunfels Cemetery.
- City Department: Parks and Recreation Department
- Solicitation Method: Request for Proposal
- Contract Award Date: September 12, 2011
- Awarded Contractors: Maintenance Management
- Modified Contract Expiration Date: September 30, 2019; with 2, 1-year renewal options remaining
- Approximate Annual Cost of Services During Renewal Period: \$129,900

Renewal of Annual Contract for Landscape Maintenance - Underdeveloped Flood Properties & ROW:

- Goods/Services Provided: Landscape services consisting of mowing, trimming, edging, shredding, herbicide and fertilizer application, mulch and flower bed maintenance as well as weed control. Services associated with this contract are limited to City owned undeveloped flood properties, roadways and medians.
- City Department: Parks and Recreation Department

- Solicitation Method: Invitation for Bid
- Contract Award Date: October 13, 2015
- Awarded Contractors: Landscape Commander, LLC
- Modified Contract Expiration Date: September 30, 2019; with 2, 1-year renewal options remaining
- Approximate Annual Cost of Services During Renewal Period: Approximately \$98,100; factors such as weather may affect the frequency of services and subsequent cost to the City.

Renewal of Annual Contract for Landscape Maintenance for City Facilities and Parks:

- Goods/Services Provided: Landscape services consisting of mowing, trimming, edging, shredding, herbicide and fertilizer application, mulch and flower bed maintenance and weed control. Services associated with this contract are limited to City owned facilities and parks.
- City Department: Citywide
- Solicitation Method: Invitation for Bid
- Contract Award Date: October 29, 2014
- Awarded Contractors: Landscape Commander, LLC
- Modified Contract Expiration Date: September 30, 2019; with 1, 1-year renewal option remaining
- Approximate Annual Cost of Services During Renewal Period: Approximately \$84,500; factors such as weather may affect the frequency of services and subsequent cost to the City.

Renewal of Annual Contract for Road Construction Work:

- Goods/Services Provided: Road construction work including, but not limited to, asphalt paving, mill and overlay, concrete work such as curbs, sidewalks and culverts, base road work, and grading.
- City Department: Public Works department
- Solicitation Method: Invitation for Bid
- Contract Award Date: September 15, 2015
- Awarded Contractors: Austin Materials, LLC d/b/a Ramming Paving Company, D and D Contractors, Inc., D & M Owens, Inc., Dirt Boys, Inc., Double S Paving, Inc., Fischer Construction Company, Inc., and Lone Star Paving
- Modified Contract Expiration Date: September 30, 2019; with 1, 1-year renewal option remaining
- Approximate Annual Cost of Services During Renewal Period: Services occur on an as-needed basis; therefore, the cost is incorporated into the streets division budget. City has spent \$916,891 to date since previous contract renewal in FY 2017.

Renewal of Annual Contract for On-Call Traffic Engineering Consulting Services:

- Goods/Services Provided: Performance of on-call traffic engineering consulting services include, but are not limited to, transportation systems planning, minor roadway design, traffic engineering studies, and signing and pavement marking for traffic operations.
- City Department: Public Works department
- Solicitation Method: Request for Qualifications
- Contract Award Date: September 22, 2014
- Awarded Contractor(s): Kimley-Horn and Associates, Inc.; Lee Engineering, LLC; and

Parsons Brinckerhoff

- Modified Contract Expiration Date: September 30, 2019; with no renewal options remaining
- Approximate Annual Cost of Services During Renewal Period: Services occur on an as-needed basis; therefore, the cost is incorporated into the departmental budget. City has spent \$4,600 to date since previous contract renewal in FY 2017, however; there are projects in progress that currently total \$179,500.

Renewal of Annual Contract for Audit Services:

- Goods/Services Provided: Independent auditing services for the performance of the City's annual financial audit.
- City Department: Finance Department
- Solicitation Method: Competitive Sealed Proposal
- Contract Award Date: August 14, 2017
- Awarded Contractors: Belt Harris Pechacek, LLLP
- Modified Contract Expiration Date: September 30, 2019; with 3, 1-year renewal options remaining
- Approximate Annual Cost of Services During Renewal Period: \$66,566

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<input checked="" type="checkbox"/>	Yes	Strategic Priorities:	9. Maintain fiscal stability of City operations
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FISCAL IMPACT:

Funding for all expenditures and contracts described above have been incorporated into the adopted FY 2017-18, and anticipated FY 2018-19, departmental, special revenue fund and capital fund budgets as applicable. Therefore, sufficient funds are available for all referenced annual contracts.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the renewal of annual contracts with multiple vendors for professional services (IDIQ), purchase of several types of vehicles, cemetery maintenance, landscape maintenance for underdeveloped flood properties and rights-of-way, landscape maintenance for City facilities and parks, road construction work, on-call traffic engineering consulting services, and auditing services.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. E)

Presenter/Contact

*Jennifer Cain, Capital Programs Manager
(830) 221-4646 - jcain@nbtexas.org*

SUBJECT:

Approval of a change order for E-Z Bel Construction on the Landa Street Project as part of the 2013 Bond Citywide Streets Program.

BACKGROUND / RATIONALE:

The Citywide Street Program was approved in the 2013 Bond election. Projects in this program could include: mill & overlay of pavement, curb repair/replacement, sidewalk repairs, and concrete diamonds around meter boxes and manholes.

The Landa Street (Walnut Avenue to Loop 337 Access) reconstruction project was designed by Vickrey & Associates. The City issued this project for bid on July 6, 2017. A total of three bids were received on July 31, 2017. Each of the submissions was scored based on cost, relevant experience, schedule, and financial capacity. Based on this criterion, E-Z Bel construction was selected as the best value bidder. They submitted a bid of \$1,087,049. The addition of contingency funding brings the amount for construction to \$1,163,143. Raba Kistner Consultants performed the materials testing for this project with a not to exceed amount of \$11,770.

During the design of the project approximately 2,600 linear feet of curb and gutter were identified to be replaced along Landa Street. However, during construction an additional 1,400 linear feet of curb and gutter was identified by the contractor and City staff for replacement due to the existing condition of the curbing. Additionally, the project called for greater paving quantities than were originally identified during design in order to increase the crown of the roadway. The crown of a roadway pushes water to the gutters that then moves to the nearest drainage inlet. The change order is based on the unit costs provided in the original bid tab. The additional curb and gutter and larger paving quantities resulted in an additional cost of \$115,000.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	City Plan/Council Priority:	Strategic Priorities: Continue an ongoing program of infrastructure construction and maintenance.
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FISCAL IMPACT:

The 2013 bond program includes \$10 million for citywide street improvement projects that will provide funding for engineering services, construction and testing on these projects. There is sufficient funding remaining for this change order.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the change order for E-Z Bel Construction on the Landa Street Project.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. F)

Presenter/Contact

*Jennifer Cain, Capital Program Manager
(830) 221-4646 - JCain@nbtexas.org*

SUBJECT:

Approval of a professional service agreement with LNV, Inc. for engineering design on Union Avenue from Common Street to Austin Street.

BACKGROUND / RATIONALE:

The citywide street program was approved by the citizens in the 2013 Bond election. Projects in this program could include: mill & overlay of pavement, curb repair/replacement, sidewalk repairs, and concrete diamonds around meter boxes and manholes.

On April 9, 2018, City Council selected Union Street from Common Street to Austin Street as a Citywide street project. This project will include spot base repairs, a mill and overlay and sidewalks.

Staff issued a task order off the City's Indefinite Delivery Indefinite Quantity (IDIQ) list that went out to five firms. Four submissions were turned in by engineering firms. Staff reviewed and evaluated the submissions and selected LNV, Inc. as the most qualified firm for this work on Union Avenue. Staff requested a scope and fee proposal from LNV and after negotiations a proposal of \$56,075 was submitted for survey, design, bid phase and construction phase services.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority:	Strategic Priorities: Continue an ongoing program of infrastructure construction and maintenance.
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FISCAL IMPACT:

The 2013 bond program includes \$10 million for citywide street improvement projects that will provide funding for engineering services, construction and testing on these projects. Therefore, sufficient funds are available to award the agreement as described above.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of a PSA with LNV, Inc. for the design of Union Avenue from Common Street to Austin Street.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. G)

Presenter/Contact

Jennifer Cain, Capital Programs Manager
(830) 221-4646 - JCain@nbtexas.org

SUBJECT:

Approval of a professional services agreement with MWM Design Group for design on Common Street from Gruene Road to Hanz Drive as part of the 2013 Bond Citywide Streets Program.

BACKGROUND / RATIONALE:

The citywide street program was approved in the 2013 Bond election. Projects in this program could include: mill & overlay of pavement, curb repair/replacement, sidewalk repairs, and concrete diamonds around meter boxes and manholes.

On April 9, 2018, City Council selected Common Street from Gruene Road to Hanz Drive as a Citywide street project. This project will include spot base repairs, a limited mill and overlay and sidewalks, including ADA Ramps at the Gruene Road intersection.

Staff issued a task order off the City's Indefinite Delivery Indefinite Quantity (IDIQ) list that went out to five firms. Four submissions were turned in by engineering firms. Staff reviewed and evaluated the submissions and selected MWM Design Group as the most qualified firm for this work on Common Street.

A task order was issued off the City's IDIQ list that went out to five firms. Four submissions were turned in and MWM Design Group was selected as the design firm for Common Street from Gruene Road to Hanz Drive. Staff requested a scope and fee proposal from MWM Design Group for survey, design, bid phase and construction phase services. MWM submitted two different scope and fee proposals for staff to review. The design fee proposal for the traditional design-bid-build delivery method is \$112,310. The design fee for an alternative design delivery method, called hybrid-field engineering, is \$58,672.

The hybrid-field engineering delivery method would provide exhibits based on site observations and aerial backgrounds that give general locations for utilities, base repairs, sidewalks, etc. Then, during the construction phase the design team will be on site providing direction for the contractor as a more hands on approach.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority:	Strategic Priorities: Continue an ongoing program of infrastructure construction and maintenance.
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FISCAL IMPACT:

The 2013 bond program includes \$10 million for citywide street improvement projects that will provide

funding for engineering services, construction and testing on these projects.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of a PSA with MWM Design Group for the design of Common Street from Gruene Road to Hanz Drive using the hybrid-field engineering scope and fee of \$58,672.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. H)

Presenter/Contact

Garry Ford, City Engineer
(830) 221-4645 - gford@nbtexas.org

SUBJECT:

Approval of a contract increase with K Friese and Associates Inc. for professional engineering services to provide third party assistance for development plan review for the City.

BACKGROUND / RATIONALE:

The City Council approved an amendment to the Code of Ordinances regarding development-related fees on March 26, 2018. The fee changes identified the support for the growing needs in the development process, which included contractual assistance to provide technical review of development applications.

The City Council approved a contract with K Friese and Associates on October 23, 2018, for development review assistance up to \$130,000. K Friese and Associates meets the proposal requirements and is qualified to complete this project. K Friese and Associates pre-qualified on the City's IDIQ for professional services and fulfills the procurement requirements.

Staff is requesting a contract increase of \$77,000 to support additional plan reviews for the remainder of FY 2017-18.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority:	Strategic Priorities: 9. Maintain fiscal stability of City operations.
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FISCAL IMPACT:

Funding for this initiative and expenditures above are incorporated into the appropriate FY 2017-18 department budget (engineering). It is likely that these fees can be absorbed by the department's current budget allocation. However, these expenditures are also eligible to be supported by the newly collected development-related fees. Therefore, sufficient funds are available.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of a contract increase with K Friese and Associates Inc. to provide third party assistance for development plan reviews for the City.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. I)

Presenter/Contact

Garry Ford, City Engineer
(830) 221-4020 - gford@nbtexas.org

SUBJECT:

Approval of the second and final reading of an ordinance amending Section 126-185 of the City of New Braunfels Code of Ordinances to prohibit through truck traffic, establishing one-way traffic, and amending Section 126-346 of the City of New Braunfels Code of Ordinances to restrict parking on one side on Ferguson Street.

BACKGROUND / RATIONALE:

Council District: 6

City Council unanimously approved the first reading of an ordinance establishing one-way traffic and amending Section 126-346 of the City of New Braunfels Code of Ordinances to restrict parking on one side on Ferguson Street on July 9, 2018.

The Engineering Division received a request from citizens on West Mill Street to establish a No Through Truck restriction on Ferguson Street due to concerns related to truck traffic on a narrow road. Ferguson Street is an 18-foot wide residential street that extends between West San Antonio Street and West Mill Street. The concerns are with large trucks on northbound Ferguson Street not being able to turn onto West Mill Street without driving over the curb or into the right of way on the opposite side of West Mill Street. Specific concerns about trucks driving to and from New Braunfels Smokehouse were raised.

Through truck restrictions

Through truck restrictions apply to any truck that is traveling on these roadways not bound for a destination along Ferguson Street. Delivery or service trucks driving to a destination along this route are not prohibited from these roads because they are not through traffic. "Truck" is defined in the Texas Transportation Code and means a motor vehicle designed, used, or maintained primarily to transport property.

Traffic counts were conducted for over one week in early December 2017. During that week, there were a total of 1,136 vehicles that travelled on Ferguson Street. Of that total, 34 vehicles (3% of total vehicles) were classified as 2-axle, 6-tire vehicles, which would be indicative of solid waste vehicles, standard vehicles with trailers, delivery trucks such as UPS or FedEx trucks, and large commercial trucks that the requestors are concerned about. Relative to other local streets, overall traffic on Ferguson Street is considered very low.

Large commercial trucks should not be driving in residential areas and are discouraged on all local residential streets. Authorizing and recommending a through truck restriction should be based on

observed issues, traffic data and other supporting information. City staff did not observe specific issues when conducting site visits and the traffic data did not clearly show a large percentage of trucks considering the truck data includes various types of multi-axle vehicles. Residents provided additional information with photographs and during public input at the Transportation and Traffic Advisory Board and City Council meetings regarding commercial truck activity and issues. Based on the additional information and discussion, staff recommends a through truck restriction if Ferguson Street is maintained for two-way traffic. If Ferguson Street is changes to one-way traffic, staff recommends reevaluating the roadway to determine if through truck traffic is still an issue and implement a restriction only at that time.

One-way traffic

Establishing one-way traffic on Ferguson Street from West Mill Street to West San Antonio Street was proposed due to the difficulty that some vehicles have with turning from Ferguson Street onto West Mill Street and the narrow roadway.

If one-way traffic is approved, signs will be posted in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD). Additionally, a curb will need to be constructed at the right-of-way line at the northeast corner of the intersection of Ferguson Street and West San Antonio Street to deter drivers from driving the wrong way from West San Antonio Street. The installation will require coordination with the adjacent property and business owners. Staff recommends establishing one-way traffic once this curb is constructed at West San Antonio Street.

Parking Restrictions

Due to the width of Ferguson Street, the Transportation and Traffic Advisory Board has recommended parking restrictions to allow for better traffic flow. Because this is a residential street, staff recommends restricting parking only on one side of the street to allow for additional parking. The northeast side of Ferguson Street is proposed to have a parking restriction. This side was selected because it has more driveways and therefore, less parking spaces than the southwest side of the road. Based on a roadway width of 18 feet, approximately 7 feet will be provided for parking and 11 feet will be provided for one-way traffic.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

2006 Comprehensive Plan: Transportation Goal 21: Provide a system of convenient and safe transportation facilities through comprehensive, cooperative and continuing transportation system planning and development.

FISCAL IMPACT:

Traffic control signs cost approximately \$150 each. Sufficient funding is available in the FY17-18 approved Public Works budget.

The curb to be constructed at the intersection of Ferguson Street and West San Antonio Street will cost approximately \$3,100. Funding for this project will need to be identified in the FY18-19 budget.

COMMITTEE RECOMMENDATION:

The original request for through truck restrictions was presented at the Transportation and Traffic Advisory Board meeting on March 8, 2018. The Board recommended approval of the through truck restriction and that staff evaluate one-way traffic on Ferguson Street from West Mill Street to West San Antonio Street and/or the possibility of restricting parking on Ferguson Street on a motion that

carried unanimously. These requests were presented to City Council on April 9, 2018, and staff was directed to take the request for one-way traffic and parking restrictions back to the Transportation and Traffic Advisory Board.

This request for through truck restrictions, one-way traffic, and parking restrictions was presented at the Transportation and Traffic Advisory Board meeting on June 14, 2018. The Board recommended approval of restricting through trucks, establishing one-way traffic from West Mill Street to West San Antonio Street, and restricting parking on the northeast side of Ferguson Street on a motion that carried unanimously.

STAFF RECOMMENDATION:

Staff recommends establishing one-way traffic on Ferguson Street in the direction of West Mill Street to West San Antonio Street once the curb at West San Antonio Street is constructed and restricting parking on the northeast side of Ferguson Street. Staff does not recommend restricting through truck traffic on Ferguson Street with one-way operations at this time. Staff recommends a through truck restriction if Ferguson Street is maintained for two-way traffic.



Ferguson Street Area Map

ORDINANCE NO. 2018-_____**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ESTABLISHING ONE-WAY TRAFFIC AND AMENDING SECTION 126-346 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO RESTRICT PARKING ON ONE SIDE OF FERGUSON STREET.**

WHEREAS, City Council has determined that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

I.

THAT it shall be unlawful for any person to operate a motor vehicle or a vehicle of any kind or type upon Ferguson Street between West Mill Street and West San Antonio Street except in a one-way eastbound direction.

II.

THAT the City of New Braunfels Code of Ordinances Section 126-346 (f) is hereby amended as follows:

- (117) On the northeast side of Ferguson Street. Such no parking zone shall be designated as a tow away zone.

III.

That the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

IV.

This Ordinance shall be and is hereby declared to be cumulative to all other ordinances of the City of New Braunfels relating to one-way traffic and parking within the City of New Braunfels, and same shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinance or ordinances are

inconsistent or in conflict with the provisions of this Ordinance, in which instance or instances those provisions shall be and they are hereby repealed.

V.

That if any provisions of this Ordinance shall be held void, illegal, or unconstitutional, it is hereby provided that all other parts of the same which are not held void, illegal or unconstitutional shall remain in full force and effect.

VI.

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this the _____ day of _____, 2018.

PASSED AND APPROVED: Second reading this the _____ day of _____, 2018.

CITY OF NEW BRAUNFELS, TEXAS

BARRON CASTEEL, MAYOR

ATTEST:

PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. J)

Presenter/Contact

Garry Ford, City Engineer
(830) 221-4020 - gford@nbtexas.org

SUBJECT:

Approval of the second and final reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area N and revise the parking restriction on the 500 block of S. Hill Avenue.

BACKGROUND / RATIONALE:

Council District: 6

City Council unanimously approved the first reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area N and revise the parking restriction on the 500 block of S. Hill Avenue on July 9, 2018.

Staff received a request from property owners along S. Hill Avenue to be included in the existing Parking by Permit Area N. The requested area consists of single-family homes. In addition to the request to be included in Parking by Permit Area N, the property owner at 575 S. Hill Avenue requested that the parking restriction on S. Hill Avenue in front of their house be replaced with Parking by Permit to allow the property owner to park there.

Signed petitions have been received from the property owners and residents requesting addition into Parking by Permit Area N on the east side of S. Hill Avenue at 575 and 607 S. Hill Avenue and on the west side of S. Hill Avenue from W. Jahn Street to 640 S. Hill Avenue. This request is for daily between 6:00 p.m. to 6:00 a.m., year-round, which is consistent with the existing Parking by Permit Area N ordinance.

The proposed designated parking by permit area is a contiguous residential area and matches the schedule of existing parking by permit areas. All of the affected residents have submitted a signed statement of the following for the initial requested area:

We the undersigned are residents and/or property owners of the proposed designated permit area described in this application. We understand that: (i) if this area is designated, certain restrictions will be placed upon on-street parking within the area; (ii) residents and/or residential property owners of the area will be entitled to obtain a limited number of parking permits exempting their vehicles from such parking restrictions, but if a resident and/or property owner owns a vehicle without having a permit displayed, that vehicle will be subject to the parking restrictions; (iii) parking permits will be issued for a term of one year and require replacement each year; (iv) the cost of issuing the annual parking permits will be paid by the residents and/or property

owners.

A public hearing on the application shall be conducted by City Council. Notices of the public hearing were mailed to all property owners (as shown on the latest tax roll) and residents within the designated permit area.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

Strategic Priority: Public Safety; Objective 5: Develop comprehensive program for river related issues which includes addressing river related issues in a timely manner and reviewing options to address river related activities and quality of life issues.

FISCAL IMPACT:

Traffic control signs cost approximately \$150 each. Sufficient funding is available in the FY17-18 approved streets and drainage budget.

COMMITTEE RECOMMENDATION:

The Transportation and Traffic Advisory Board unanimously approved a recommendation to City Council to amend Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area N to the areas requested by citizens at their meeting on June 14, 2018.

STAFF RECOMMENDATION:

Staff recommends approval of amending Parking by Permit Area N to include the east side of S. Hill Avenue at 575 and 607 S. Hill Avenue and on the west side of S. Hill Avenue from W. Jahn Street to 640 S. Hill Avenue. Staff also recommends approval of removing the parking restriction at 575 S. Hill Avenue to be replaced with Parking by Permit Area N.

ORDINANCE NO. 2018-_____**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-354 (c) TO AMEND PARKING BY PERMIT AREA N AND AMENDING SECTION 126-346 (f) TO REMOVE THE PARKING RESTRICTION AT 575 S. HILL AVENUE.**

WHEREAS, the City Council has determined that Section 126-354 (c) Parking by Permit Only, Designated Permit Areas be amended in order to protect the health, safety and welfare of the citizens.

WHEREAS, after engineering and field investigation, the Transportation and Traffic Advisory Committee and the City Engineer have recommended that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

I.

THAT Section 126-354 (c) is hereby amended to read:

- (15) Area N, daily between the hours of 6:00 p.m. and 6:00 a.m., year-round.
 - b. On the east side of South Hill Avenue at 575 and 607 South Hill Avenue.
 - c. On the west side of South Hill Avenue from West Jahn Street to 640 South Hill Avenue.

II.

THAT the City of New Braunfels Code of Ordinances Section 126-346 (f) is hereby amended to read:

- (113) On both sides of the 500 block of South Hill Avenue, excluding 575 South Hill Avenue. Such no parking zone shall be designated as a tow away zone.

III.

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

IV.

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

V.

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this the _____ day of _____, 2018.

PASSED AND APPROVED: Second reading this the _____ day of _____, 2018.

CITY OF NEW BRAUNFELS, TEXAS

BARRON CASTEEL, MAYOR

ATTEST:

PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY



Proposed addition to Parking by Permit Area N



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. A)

Presenter/Contact

Dawn Butrym, NBU CFO
dbutrym@nbutexas.com

SUBJECT:

Public hearing and first reading of an ordinance amending Chapter 130, Article VI, of the Code of Ordinances, relating to the amendment of land use assumptions and a capital improvements plan and the imposition of water and wastewater impact fees.

BACKGROUND / RATIONALE:

REQUEST BY: New Braunfels Utilities
263 E. Main Plaza
New Braunfels, TX 78130

CONSULTANT: Stephanie Neises, P.E.
Freese and Nichols, Inc.
10431 Morado Circle, Suite 300
Austin, TX 78759

STAFF CONTACT: Dawn Butrym
Chief Financial Officer
New Braunfels Utilities
(830) 629-8468 - dbutrym@nbutexas.com

New Braunfels Utilities (NBU) charges water and wastewater impact fees to new development within its service area. These fees, regulated by Chapter 395 of the Texas Local Government Code (the Act), are designed to recover part of the cost of major infrastructure needed to serve the new development. Impact fees are developed for a ten-year planning horizon, with previous studies encompassing the periods from 1989-1999, 1999-2009, 2009-2016, and 2015-2025. NBU, Freese and Nichols, Inc. (FNI), and the City have developed a new ten-year planning period of 2018-2028. The prior 2015-2025 fee program will be truncated at year 2018 (becoming the 2016-2018 program) if City Council adopts the new impact fee program.

Pursuant to the Act, City Council appointed the Impact Fee Advisory Committee (IFAC), among other things, to advise the City of the need to amend (i) land use assumptions, (ii) the capital improvements plan, and (iii) the current impact fees. This Committee met on December 5, 2017, March 6, 2018, and June 5, 2018, to review such matters. On June 5, 2018, the IFAC, after considering the reports of NBU and FNI, recommended that City Council set a public hearing date to discuss amending the ordinance setting impact fees. In accordance with the Act, City Council passed a resolution on June 11, 2018, setting a public hearing date of July 23, 2018. Following that hearing, City Council will consider whether to approve the first reading of an ordinance amending land use assumptions and a

capital improvement plan and setting the new maximum impact fees for water and wastewater.

Proposed Impact Fees:

The proposed ordinance sets the maximum impact fees per service unit that could be assessed and collected under the Act as follows:

Type of Service	Maximum Fee per LUE
Water	\$7,989
Sewer	\$3,251

Current Impact Fees:

The current maximum impact fees per service unit that are assessed and collected under the Act are as follows:

Type of Service Maximum Fee per LUE	
Water	\$5,321.64
Sewer	\$4,081.48

The proposed amendment increases the maximum impact fees for water by \$2,667.36 and decreases the maximum impact fees for wastewater by \$830.48, which results in a net increase of \$1,836.88 in total maximum impact fees. This increase will assist in recovering the cost of \$278,526,081.00 in infrastructure projects needed to serve new development in the next ten years.

The second reading of the proposed ordinance is scheduled for August 13, 2018, and, if approved, the proposed maximum impact fees will become effective on November 13, 2018.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The IFAC met on June 5, 2018, and unanimously recommended that the ordinance setting impact fees be amended.

STAFF RECOMMENDATION:

Staff recommends approval.

ORDINANCE NO. 2018-_____

AN ORDINANCE AMENDING CHAPTER 130, ARTICLE VI, SECTIONS 130-336 THROUGH 130-410, CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS RELATING TO WATER AND WASTEWATER CAPITAL RECOVERY FEES; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CONTAINING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of New Braunfels, Texas, owns and operates by and through New Braunfels Utilities its own water and wastewater systems in accordance with the laws of the State of Texas and the charter of said City; and

WHEREAS, the Council of the City of New Braunfels has heretofore established an ordinance providing for assessment and collection of water and wastewater capital recovery fees in accordance with Chapter 395 of the Texas Local Government Code, and which ordinance has been codified as Chapter 130, Article VI, Code of Ordinances of the City of New Braunfels; and

WHEREAS, Section 130-405 of the Code of Ordinances of the City requires an update every five years by the City and New Braunfels Utilities (NBU) of the land use assumptions and capital improvements plan upon which impact fees to be collected are based; and

WHEREAS, the staff of the City has provided NBU with updated land use assumptions; and

WHEREAS, the Impact Fee Advisory Committee appointed by City Council as required by law, after considering the reports of New Braunfels Utilities and its consultant, Freese and Nichols, has recommended that the ordinance be amended; and

WHEREAS, pursuant to Section 395-014 of the Act and City ordinances, NBU has updated its capital improvements plan for water and wastewater facilities, and based on such updated capital improvements plan and land use assumptions, NBU has calculated the amended maximum impact fees for the 2018-2028 planning period; and

WHEREAS, in order to change the maximum amount of such impact fees, it is now necessary and advisable that Sections 130-336 through 130-410 of Chapter 130, Article VI, Code of Ordinances, as heretofore established by ordinance, be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1.

THAT, the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2.

THAT, Sections 130-336 through 130-410 of Chapter 130, Article VI, New Braunfels Code of Ordinances, as heretofore established by ordinance, be and are hereby amended in the following sections with deleted language signified by strikethrough font and new language signified by underlined font:

ARTICLE VI. - WATER AND WASTEWATER CAPITAL RECOVERY FEES

DIVISION 1. - GENERALLY

Sec. 130-336. - Definitions.

Words and terms used in this article shall have the same meaning and definition as contained in the Act.

Act, as used in this article, means V.T.C.A., Local Government Code § 395.001 et seq, as amended.

Capital recovery fees shall have the same meaning and refer to "impact fees" as defined in the Act.

Living unit equivalent (LUE) is the standardized measure referred to in the definition of service unit in the Act and in this article. LUE shall be established by policy of NBU.

Sec. 130-337. - Intent.

This article is intended to impose water and wastewater capital recovery fees, as established in this article, in order to finance public facilities, the demand for which is generated by new development in the NBU service area, and to replace existing capital recovery or impact fees.

Sec. 130-338. - Authority.

The city is authorized to enact this article by V.T.C.A., Local Government Code § 395.001 et seq., and its successors, which authorize home rule cities, among others, to enact or impose impact fees (capital recovery fees) on land within their corporate boundaries or extraterritorial jurisdictions, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development; and by the city Charter. The provisions of this article shall not be construed to limit the power of the city to adopt such article pursuant to any other source of local authority, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article. Guidelines may be developed by resolution or otherwise to implement and administer this article.

Sec. 130-339. - Applicability of capital recovery fees.

- (a) This article shall be uniformly applicable to new development which occurs within the water and wastewater service areas.
- (b) Except as otherwise provided in this article, no new development shall be exempt from the assessment of capital recovery fees.

Sec. 130-340. - Capital recovery fees as conditions of development approval.

No new development shall be approved by the city or NBU without assessment of capital recovery fees pursuant to this article. No water and wastewater tap shall be connected unless the applicant has paid the capital recovery fees imposed by this article.

Sec. 130-341. - Limitation of liability.

The provisions of this article shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, and welfare. Any member of the city council, city official or employee, member of the board of trustees of NBU, and any official or employee of NBU charged with the enforcement of this article, acting for the city or NBU in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of such duties.

Sec. 130-342. - Remedies for violation of article.

Any violation of this article can be enjoined by a suit filed in the name of the city or NBU in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this article or in this Code or the policies of NBU.

Secs. 130-343—130-355. - Reserved.

DIVISION 2. - ADOPTION OF FEES

Sec. 130-356. - Establishment of water and wastewater service areas.

- (a) The water and wastewater service areas for development of impact fee purposes have been approved by the city council and the maps showing such service areas shall be maintained in NBU's offices.
- (b) The service areas shall be established consistent with any facility service area established in the capital improvement plan. Additions to the service area may be designated by the city council consistent with the procedure set forth in the Act and its successors.

Sec. 130-357. - Land use assumptions.

Land use assumptions used in the development of the capital recovery fees have been approved by the city council and shall be maintained in NBU's offices. These assumptions may be revised by the city council according to the procedure set forth in the Act and its successors.

Sec. 130-358. - Capital recovery fees per service unit.

- (a) The maximum capital recovery fee per service unit in the service area shall be computed by dividing the growth-related capital construction cost of service in the service area identified in the capital improvements plan for that category of capital improvements, by the total number of projected service units anticipated within the service area which are necessitated by and attributable to new development, based on the land use assumptions for that service area, and subtracting credits in the form of future rate contributions to CIP funding.
- (b) The maximum capital recovery fees per service unit that could be assessed and collected have been established under the regulatory provisions of the Act and are as follows:

Type of Service	Maximum Fee per LUE
Water	\$7,989
Sewer	\$3,251

- (c) The maximum capital recovery fees per service unit may be amended from time to time according to the procedures set forth in the Act upon approval of the city council.

Sec. 130-359. - Assessment of fees.

- (a) The approval of any subdivision of land or of any new development shall include as a condition the assessment of the capital recovery fee applicable to such development.
- (b) Assessment of the capital recovery fee for any new development shall be made in accordance with the Act and its successors pursuant to the policy from time to time adopted by the board of trustees of NBU.
- (c) Because fire protection is of critical concern to the community as a whole, water demand related solely to fire protection is not subject to assessment of a capital recovery fee. Water demand related solely to fire protection shall be supplied through unmetered infrastructure.
- (d) Assessment of capital recovery fees shall be at the maximum capital recovery fees rates established in section 130-358.

Sec. 130-360. - Calculation of fees.

- (a) Upon application for a water or wastewater tap, NBU shall compute the capital recovery fees due in accordance with the provisions of the Act and its successors pursuant to policy adopted by the board of trustees thereof from time to time.
- (b) The amount of each capital recovery fee due for a new development, whether calculated at time of final plat recordation or at time of water or wastewater tap purchase, shall not exceed an amount computed by multiplying the fee assessed per service unit pursuant to section 130-359 by the number of service units generated by the development.

Sec. 130-361. - Collection of fees.

- (a) No water or wastewater tap shall be connected until all capital recovery fees have been paid, except as provided otherwise by contract.
- (b) Capital recovery fees shall be collected in accordance with the Act and pursuant to the policy from time to time adopted by the board of trustees of NBU.

Secs. 130-362—130-370. - Reserved.

DIVISION 3. - WATER FACILITIES

Sec. 130-371. - Water service area.

- (a) There is hereby established a water service area for planning and CIP fee calculation as depicted on the service area maps maintained in NBU's offices.
- (b) The boundaries of the water service area may be amended from time to time, and new water service areas may be delineated, pursuant to the procedures in section 130-356.

Sec. 130-372. - Water improvement plan.

- (a) The water improvement plan for NBU for capital recovery fee calculation purposes is hereby adopted and shall be maintained in NBU's offices.
- (b) The water improvement plan adopted in this section may be amended from time to time, pursuant to the procedures set forth in the Act and its successors.

Sec. 130-373. - Water facilities fees adopted, amendment.

- (a) The maximum capital recovery fees per service unit for water facilities are hereby adopted and are set forth in section 130-358.
- (b) The capital recovery fees per service unit for water facilities may be amended from time to time, pursuant to the procedures in section 130-358.
- (c) The capital recovery fee per service unit to be collected may be amended from time to time by the board of trustees of NBU, but shall not exceed the maximum impact fee per service unit calculated pursuant to section 130-358.

Secs. 130-374—130-385. - Reserved.

DIVISION 4. - WASTEWATER FACILITIES

Sec. 130-386. - Wastewater service area.

- (a) There is hereby established a wastewater service area for planning and CIP fee calculation as depicted on the service area maps maintained in NBU's offices.
- (b) The boundaries of the wastewater service area may be amended from time to time, and new wastewater service areas may be delineated, pursuant to the procedures in section 130-356.

Sec. 130-387. - Wastewater improvement plan adopted, amendment.

- (a) The wastewater improvement plan for NBU for capital recovery fee calculation purposes is hereby adopted and shall be maintained in NBU's offices.
- (b) The wastewater improvement plan adopted in this section may be amended from time to time, pursuant to the procedures set forth in the Act and its successors.

Sec. 130-388. - Fees adopted, amendment.

- (a) The maximum capital recovery fees per service unit for wastewater facilities are hereby adopted and are set forth in section 130-358.
- (b) The capital recovery fees per service unit for wastewater facilities may be amended from time to time, pursuant to the procedures in section 130-358.
- (c) The capital recovery fee per service unit to be collected may be amended from time to time by the board of trustees of NBU, but shall not exceed the maximum impact fee per service unit calculated pursuant to section 130-358.

Secs. 130-389—130-400. - Reserved.

DIVISION 5. - ADMINISTRATION

Sec. 130-401. - Establishment of accounts.

- (a) NBU shall establish separate interest bearing accounts with its authorized depository for water impact fees and for wastewater impact fees.

- (b) Interest earned by each account shall be credited to that account and is subject to all restrictions placed on the use of such capital recovery fee under the Act.
- (c) NBU shall establish adequate financial and accounting controls to ensure that capital recovery fees disbursed from the account are utilized solely for the purposes authorized in section 130-402. Disbursement of funds shall be authorized by the board of trustees of NBU at such times as are reasonably necessary to carry out the purposes and intent of this article; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten years from the date the fee is deposited into the account.
- (d) NBU shall maintain and keep adequate financial records for each account established under this article, which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program as area related capital projects. NBU shall also maintain such records as are necessary to ensure that refunds are appropriately made under the provisions of V.T.C.A., Local Government Code § 395.025 and its successors. The records of the accounts into which capital recovery fees are deposited shall be open to public inspection and copying during ordinary business hours.

Sec. 130-402. - Use of proceeds of capital recovery fee accounts.

- (a) The capital recovery fees collected pursuant to this article may be used to finance or to recoup capital construction costs of service. Capital recovery fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of NBU to finance such capital improvements or facilities expansions.
- (b) Capital recovery fees collected pursuant to this article shall not be used to pay for any of the following expenses:
 - (1) Construction, acquisition or expansion of capital improvements or assets other than those identified in the capital improvements plan;
 - (2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;
 - (3) Upgrading, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
 - (4) Upgrading, expanding or replacing existing capital improvements to provide better service to existing development; provided, however, that capital recovery fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or
 - (5) Administrative and operating costs of the city or NBU.

Sec. 130-403. - Appeals.

A person or entity who has exhausted all administrative remedies set out in the policy adopted by the board of trustees of NBU pursuant to the Act and its successors and who is aggrieved by a final decision is entitled to trial de novo under the Act.

Sec. 130-404. - Refunds.

Capital recovery fees shall be refunded only in accordance with the provisions of the Act and its successors. NBU shall adopt a policy with respect to refunds pursuant to the Act.

Sec. 130-405. - Updates to plan and revision of fees.

The city and NBU shall review the land use assumptions and capital improvements plan for water and wastewater facilities at least every five years, the first five-year period of which shall commence from the date of adoption of the capital improvements plan referenced herein. The city council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or capital recovery fees are needed and shall, in accordance with the procedures set forth in the Act, or any successor statute, either update the fees or make a determination that no update is necessary.

Sec. 130-406. - Advisory committee, functions.

- (a) The city has appointed a capital improvements advisory committee (the "advisory committee") in accordance with the provisions of the Act.
- (b) The functions of the advisory committee are those set forth in the Act, or any successor statute, and shall include the following:
 - (1) Advise and assist the city in adopting land use assumptions;
 - (2) Review the capital improvements plan regarding water and wastewater capital improvements and file written comments thereon;
 - (3) Monitor and evaluate implementation of the capital improvements program;
 - (4) Advise the city of the need to update or revise the land use assumptions, capital improvements program and capital recovery fees; and
 - (5) File semiannual reports evaluating the progress of NBU in achieving the capital improvements plans and identifying any problems in implementing the plans or administering the capital recovery fees.
- (c) The city or NBU shall make available to the advisory committee any professional reports prepared in the development or implementation of the capital improvements plan.
- (d) The city council shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

Sec. 130-407. - Agreement for capital improvements.

NBU is authorized to enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of capital recovery fees.

Sec. 130-408. - Relief procedures.

NBU shall adopt a policy consistent with the provisions of the Act and its successors with respect to variances or waivers of provisions of this article. Such policy may provide for a waiver or variance if there is a finding that the proposed waiver would result in substantial economic benefit to the city.

Sec. 130-409. - Use of other financing mechanisms.

- (a) NBU may finance water and wastewater capital improvements of facilities expansions designated in the capital improvements plan through the use of operating cash transfers, issuance of bonds, the formation of public improvement districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of capital recovery fees.

- (b) Except as otherwise provided in this article, the assessment and collection of a capital recovery fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.

Sec. 130-410. - Capital recovery fees as additional and supplemental regulation.

- (a) Capital recovery fees established by this article are additional and supplemental to, and not in substitution of, any other requirements imposed by the city or NBU on the development of land or the issuance of building permits or the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of the city's comprehensive plan, capital improvements plan, zoning ordinance, subdivision regulations and other city or NBU policies, ordinances and resolutions by which the city or NBU seeks to ensure the provision of adequate public facilities in conjunction with the development of land.
- (b) This article shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other regulations of the city or NBU which shall be operative and remain in full force and effect without limitation with respect to all such development.

Secs. 130-411—130-430. - Reserved.

SECTION 3.

THAT, this ordinance shall be and is hereby declared to be cumulative to all other ordinances of the City of New Braunfels relating to water and wastewater capital recovery fees for the New Braunfels Utilities water and wastewater systems, and same shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinance or ordinances are inconsistent or in conflict with the provisions of this ordinance, in which instance or instances those provisions shall be and they are hereby repealed.

SECTION 4.

THAT, if any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5.

THAT, this ordinance shall be effective on November 13, 2018.

SECTION 6.

PASSED AND APPROVED: First Reading this 23rd day of July, 2018.

PASSED AND APPROVED: Second Reading this 13th day of August, 2018.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA ACEVEDO, City Attorney



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. B)

Presenter/Contact

*Robin Shellard, Interim Grants Administrator
(830) 221-4081 - rshellard@nbtexas.org*

SUBJECT:

Discuss and consider approval of the Community Development Block Grant Annual Action Plan for Program Year 2018.

BACKGROUND / RATIONALE:

Public hearings on the draft Community Development Block Grant (CDBG) Program Year (PY) 2018 Action Plan took place on June 6 and June 25 that allowed citizens to make comments on the recommendations as required by the U.S. Department of Housing and Urban Development (HUD). Additionally, the plan was available for a 30-day public review period from June 11 through July 12, 2018. Below are the recommendations from the Community Development Advisory Committee (CDAC) of projects to be included in the Annual Action Plan for PY2018:

Plan Year 2018		\$378,361
CASA	Salaries for Case Managers	18,000
SA Food Bank for NB Food Bank	Emergency food distribution program	8,000
Salvation Army	Community Kitchen Operations	10,117
Comal County Senior Citizens Foundation	Meals on Wheels	20,651
	Public Services Activities	\$56,768
City of New Braunfels	CDBG Program Administration	
	Administration	\$75,691
Comal County Habitat for Humanity	Home building program	8,500
Comal County Senior Citizens Foundation	Minor home repair program	100,000
Westside Community Center	2 nd Floor Fire Exits and AC Unit Replacement	*152,500
	Housing and Public Facilities Projects	\$261,000

**a portion of uncommitted funds (\$15,098) from previous PY funds is eligible and available for this project.*

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority:	Strategic Priorities: Growth and development Comprehensive Plan: Affordable housing, historic preservation, education and youth.
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FISCAL IMPACT:

These funds constitute a grant to the City from the U. S. Department of Housing and Urban Development (HUD) - Community Development Block Grant (CDBG) and there is no match requirement.

COMMITTEE RECOMMENDATION:

The Community Development Advisory Committee (CDAC) has approved these recommendations for City Council consideration.

STAFF RECOMMENDATION:

Staff recommends approval of the PY2018 Community Development Block Grant Action Plan to include any funding allocation amendments agreed upon by City Council.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. C)

Presenter/Contact

Garry Ford, P.E., City Engineer
(830) 221-4020 - gford@btexas.org

SUBJECT:

Discuss and consider approval of a resolution for the determination of right-of-way of Schmidt Avenue, identified as a minor arterial in the City of New Braunfels Regional Transportation Plan, between Morningside Drive and IH 35.

BACKGROUND / RATIONALE:

Staff received an application for right-of-way determination on Schmidt Avenue in preparation of a final plat for four parcels on the south corner of Schmidt Avenue and North IH 35 Frontage Road. The request is to reduce the right-of-way width from 120 feet to a variable width between 60 and 120 feet (existing right-of-way).

Schmidt Avenue is identified as a Minor Arterial in the City of New Braunfels Regional Transportation Plan (RTP) approved by City Council on March 12, 2012. The RTP provides region wide consistency and continuity regarding arterial and collector street alignments and function to guide local thoroughfare planning decisions. The RTP defines a Minor Arterial as a roadway that serves traffic generators and through movements. Minor Arterials include up to six lanes and have a right-of-way width up to 120 feet.

The Schmidt Avenue segment is approximately 1,000 feet between the North IH 35 Frontage Road and Morningside Drive. Schmidt Avenue also provides regional connectivity between IH 35 and FM 1044. The area consists of commercial land use at IH 35 and residential land use at Morningside Drive. Morningside Drive is classified as a Major Collector and provides area connectivity between IH 35, Schmidt Ave, Rueckle Road and Solms Road. The segment is identified as a future priority trail on the City's Hike and Bike Trails Plan and is a popular route for bicyclists.

The existing right-of-way of Schmidt Avenue varies between approximately 120 to 50 feet. The existing typical section is a four-lane divided roadway with 11-foot travel lanes adjacent to North IH 35 Frontage Road tapering to a two-lane roadway towards Morningside Drive. The east side of this segment includes 6-foot sidewalks at new development adjacent to IH 35. The street serves residential areas along Schmidt Avenue and Morningside Drive and regional traffic on FM 1044.

Based on the Alamo Area Metropolitan Planning Organization (MPO) regional travel demand model, 2015 average daily traffic (ADT) was 4,500. The projected 2040 ADT is expected to significantly increase to over 17,000. The generalized capacity of the existing section is 5,100 ADT.

The future typical minor arterial section of Schmidt Avenue between North IH 35 Frontage Road and Morningside Drive includes two travel lanes, a center turn lane, bike lanes and sidewalks. The

proposed right-of-way for this section is 70 feet. The center turn lane is needed for the turning movements and intersection operations at Becker Street and Morningside Drive. The bike lanes will provide needed and master planned connectivity to the bike lanes under construction with the Morningside Drive and S. Solms Road capital projects. Additionally, the proposed street section and right-of-way is consistent with the capital project sections.

The existing right-of-way that is greater than 70 feet approaching the North IH 35 Frontage Road needs to be maintained. The intersection meets traffic signal warrants and the Texas Department of Transportation has developed a proposed plan for intersection improvements that may include a roundabout.

Based on existing and future land use, constraints, and traffic activity, 70 feet of right-of-way provides up to 48 feet of pavement which provides various vehicle lane, bicycle lane and sidewalk/path options. Additional right-of-way may be required at intersections to mitigate specific traffic impacts due to development and will be provided in accordance with the City's Code of Ordinances.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

2006 Comprehensive Plan: Objective 22J: The City should implement the adopted Thoroughfare Plan to develop a balanced roadway network that includes arterial streets and collector streets. As further development occurs, ensure that provision and adequate arterial, collector and local streets that serve to provide traffic access and circulation and are functionally integrated with the existing arterial and collector street system.

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

On July 3, 2018, the Planning Commission made a recommendation of approval regarding the right-of-way determination. (9-0-0)

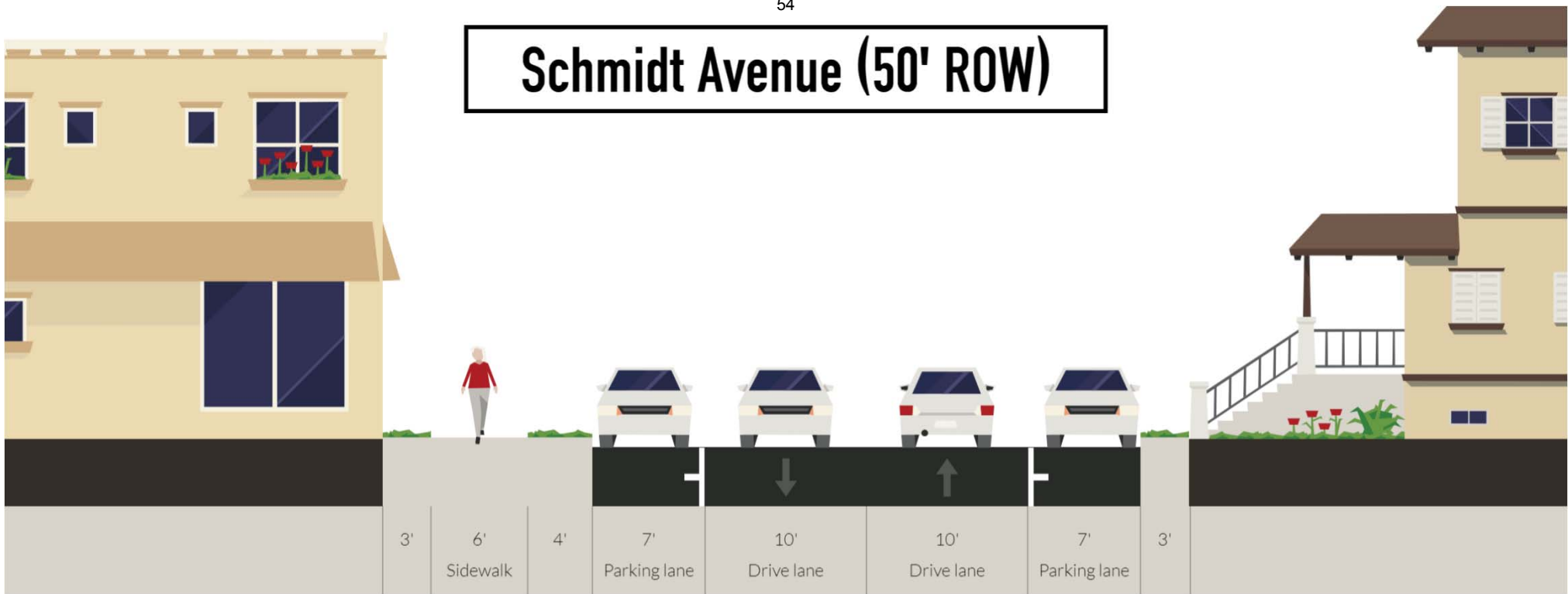
STAFF RECOMMENDATION:

Staff recommends establishing a minimum right-of-way width of 70 feet for Schmidt Avenue between North IH 35 Frontage Road and Morningside Drive.



Exhibit 1 – Schmidt Avenue between N IH 35 Frontage Road and Morningside Drive, with proposed plat and parcel highlighted

Schmidt Avenue (50' ROW)



Schmidt Avenue (120' ROW)

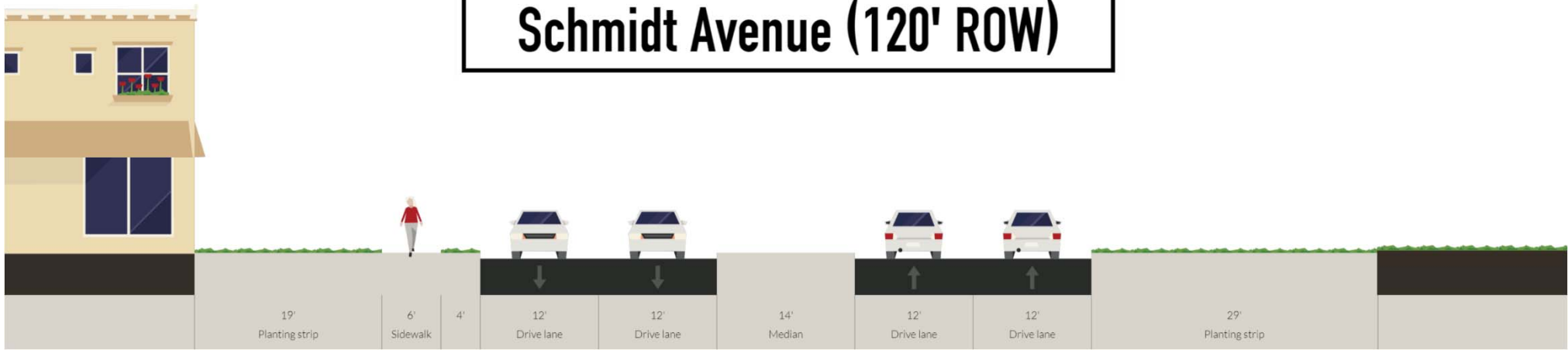


Exhibit 2 – Existing roadway sections with minimum 50' and maximum 120' right-of-way.

Schmidt Avenue (70' ROW)

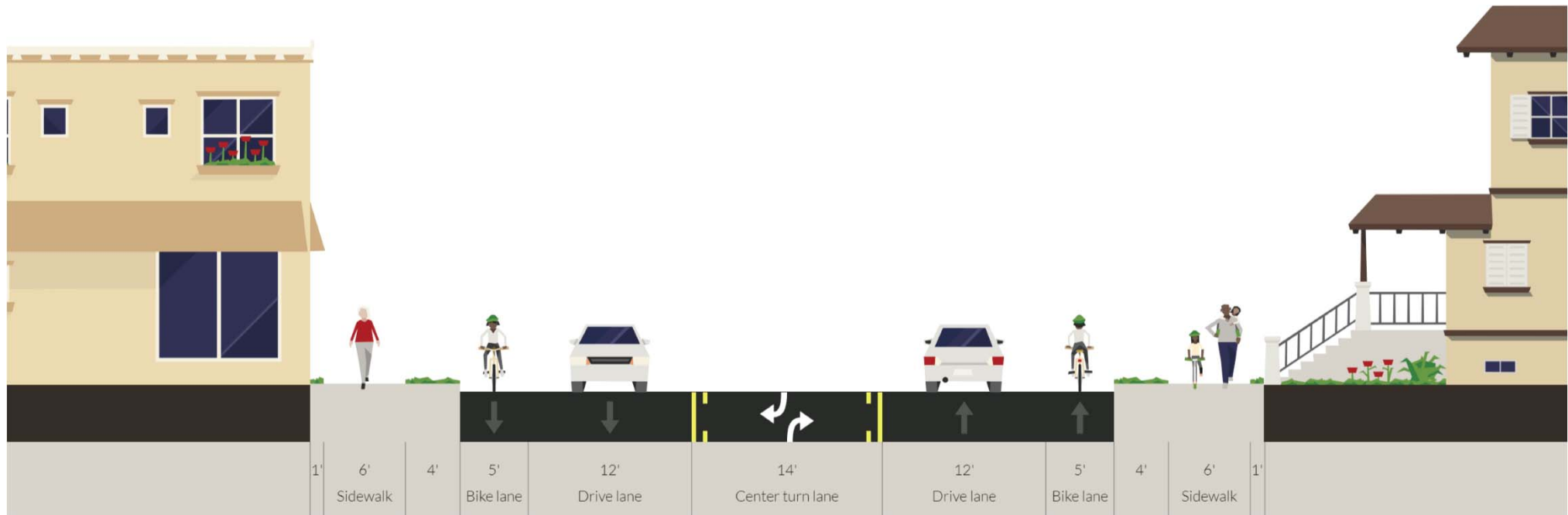


Exhibit 3 – Planned roadway section with minimum 70' right-of-way.

RESOLUTION NO. 2018-____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ESTABLISHING THE RIGHT-OF-WAY OF THE MINOR ARTERIAL IN THE CITY OF NEW BRAUNFELS REGIONAL TRANSPORTATION PLAN ON SCHMIDT AVENUE.**

WHEREAS, on March 12, 2012, the City Council of the City of New Braunfels adopted the City of New Braunfels Regional Transportation Plan as the thoroughfare plan; and

WHEREAS, the City of New Braunfels Regional Transportation Plan designates Minor Arterial thoroughfares to require up to 120 feet of right-of-way dedication with a subdivision plat; and

WHEREAS, the City of New Braunfels Regional Transportation Plan shows Schmidt Avenue as a Minor Arterial; and

WHEREAS, Schmidt Avenue from North IH 35 Frontage Road to Morningside Drive is currently a four-lane divided roadway tapering to a two-lane roadway within approximately 120-50 feet of right-of-way; and

WHEREAS, the Minor Arterial right-of-way is established at up to 120 feet with up to six travel lanes; and

WHEREAS, the Planning Commission and City staff recommend that Schmidt Avenue from North IH 35 Frontage Road to Morningside Drive be established at a minimum of 70 feet of right-of-way.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

THAT, the Regional Transportation Plan right-of-way for Schmidt Avenue from North IH 35 Frontage Road to Morningside Drive be established at a minimum of 70 feet.

PASSED, ADOPTED AND APPROVED this 23rd day of July, 2018.

City of New Braunfels, Texas

BARRON CASTEEL, Mayor

Attest:

PATRICK D. ATEN, City Secretary



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. D)

Presenter

*Stacy Snell, Planning and Community Development Assistant Director
ssnell@nbtexas.org*

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a dance hall with outdoor music in the "C-1" Local Business District on 4.43 acres, Lot 1D-R, Block 1, Walnut Heights Subdivision, Unit 1, which surrounds but does not include the property addressed as 731 N. Walnut Avenue.

BACKGROUND / RATIONALE:

Case No.: PZ-18-017

Council District: 1

Owner: Henry-Walnut, Ltd.
381 East Austin St.
New Braunfels, TX 78130

Applicant: Gerald M. Boyd
2400 E. Cesar Chaves, #302
Austin TX, 78702

Staff Contact: Matthew Simmont, Planner
(830) 221-4058
msimmont@nbtexas.org

The subject property is located on the west side of N. Walnut Avenue, between Landa Street and Bavarian Drive, adjacent and south of the Missouri-Pacific Railroad right-of-way. The 4.43-acre property is zoned "C-1" Local Business District and is undeveloped.

The applicant is requesting approval of a Type 1 Special Use Permit (use only, a site plan is not tied to the SUP) that would allow for the property to be used as a dance hall/music venue with outdoor music. A predesign report (see Attachment 3) has been submitted that includes a conceptual layout with proposed improvements to the property. All improvements will be required to comply with City code requirements including, but not limited to: minimum number of parking spaces, building design standards, landscaping, tree preservation, setbacks and buffering.

The conceptual site plan indicates two proposed structures that contain flexible entertainment space with bars and restrooms. In addition, outdoor entertainment space consists of a stage area for music performances with space for yard games and a food court. A preliminary review of the conceptual site

plan indicates the proposed number of parking spaces is insufficient and does not appear to account for the parking requirements for the outdoor entertainment space. Significant revision to the conceptual site plan is necessary to comply with minimum parking requirements. Additionally, the predesign report does not address how the proposed project would address potential negative impacts from noise or lighting associated with the outdoor music venue.

General Information:

Size: = 4.43 acres

Surrounding Zoning and Land Use:

North - Across railroad right-of-way, R-3 / Laurel Plaza Multifamily housing and Comal Senior Center

South - C-1 & R-3 / Single-family residence, Bavarian Manor Apartments

East - Across Walnut Ave., M-1 / Brauntex Storage

West - M-1 / Liberty Partnership Ltd. (Industrial)

Comprehensive Plan / Future Land Use Designation

Commercial & Commercial/Industrial

Floodplain:

No portion of the subject property is within the 100-year floodplain.

Regional Transportation Plan:

N. Walnut Avenue is designated as a Principal Arterial and has approximately 80 feet of right-of-way along the property frontage. No additional right-of-way dedication will be required with the proposed use of the property.

Traffic Analysis:

A Traffic Impact Analysis (TIA) worksheet was not submitted with the Special Use Permit application. Information utilized in the review of a zone change request typically includes details on potential traffic generation, impact and the potential need for off-site roadway improvements. Traffic mitigation measures may be required with the review of any required traffic impact analysis (TIA) of the proposed use.

Improvement(s):

None

Determination Factors:

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole (*The subject property is zoned C-1 in an area of mixed uses along an arterial corridor - residential, multifamily, commercial and industrial uses are nearby. Allowing a dance hall with outdoor music would likely introduce an incompatible land use to the adjacent residential uses.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*There do not appear to be any conflicts with these elements.*);
- How other areas designated for similar development will be affected (*Allowing a dance hall with outdoor music would likely introduce an incompatible land use to adjacent uses and/or*

residents.);

- Any other factors that will substantially affect the public health, safety, morals, or general welfare. (*The peak time traffic generation for a dance hall/live music venue could have a significant effect on surrounding residents and properties due to the vehicular capacity of Walnut Avenue. In addition, the use of live outdoor music could negatively impact the health and general welfare of the public in neighboring residential communities.*); and
- Whether the request is consistent with the Comprehensive Plan. (*The proposed use of the property is consistent with the Future Land Use designation of the subject site as Commercial & Commercial/Industrial. However, the proposed SUP to allow for a dance hall with outdoor music would not maintain land use compatibility with the adjacent residential properties and nearby neighborhoods.*)

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

✓	Yes	City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan	Pros: Objective 1A: Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. The proposed SUP would provide an additional option for entertainment along a major corridor within the City. Cons: Objective 1A Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. The proposed use has the potential to generate an amount of traffic and noise into a single-family and multifamily neighborhood that could disrupt the quality of life for residents. Objective 20G: Discourage incompatible land uses from abutting residential areas. The proposed use may negatively impact the use and enjoyment of surrounding residential properties. C-1 Zoning District: The proposed use is not consistent with the scale and intensity of other uses permitted by right in the zoning district.
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FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on July 3, 2018 and unanimously recommended denial of the proposed rezoning (8-0-0), with Commissioner Tubb absent.

STAFF RECOMMENDATION:

Staff recommends denial of the proposed Type 1 Special Use Permit to allow a dance hall with outdoor music for this location due to the potential incompatibility of the proposed entertainment venue with surrounding residents and properties. Staff is unable to fully review all potential impacts of the proposed use without the benefit of traffic analysis and a clear understanding of the scale of the

project in compliance with code requirements.

Should City Council be inclined to approve the request, Staff recommends the following conditions:

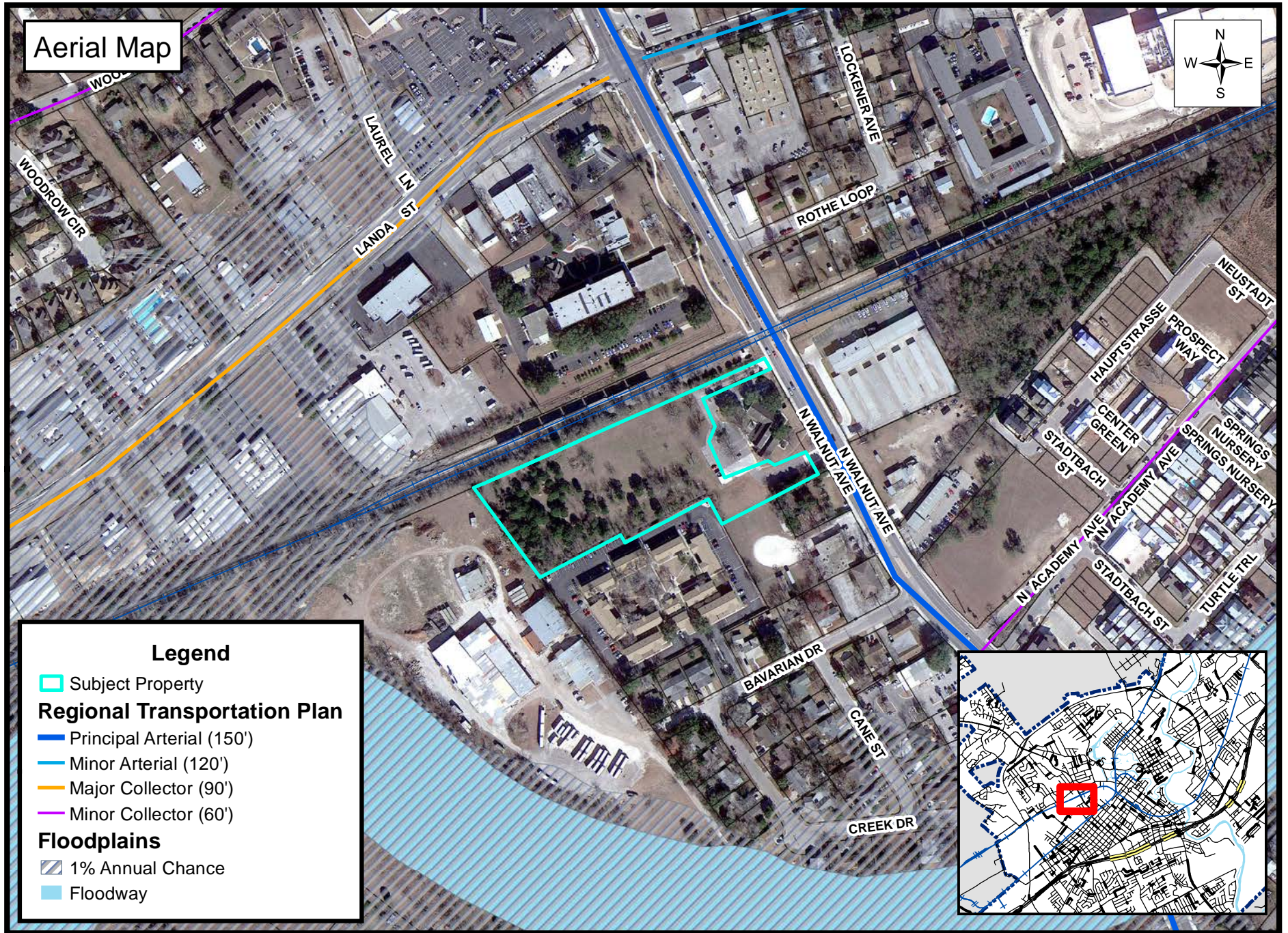
1. In accordance with Section 2.1 of the Zoning Ordinance, a traffic impact analysis worksheet be submitted prior to the second reading of the rezoning ordinance. If a full traffic impact analysis is required, it should be submitted and reviewed before an SUP proceeds to final approval.
2. A residential buffer with a masonry wall and shade trees in compliance with Section 5.3-2(h) be required along the entire northern and southern property boundaries.
3. Outdoor music must comply with the City's Noise Ordinance.
4. All required landscaping must be irrigated with an automatic underground system.

Notification:

Public hearing notices were sent to 11 owners of property within 200 feet of the request. The Planning Division has received one response in favor (#8) and five in opposition (#'s 1, 2, 5, 9 & 11) representing 34% of the notification area.

Attachments:

1. Aerial and Regional Transportation Plan Map
2. Application
3. Predesign report with conceptual site plan
4. Land Use Maps (Zoning, Existing and Future Land Use)
5. Notification List, Notification Map and Notification Responses
6. Photographs
7. Ordinances
 - Sec. 3.3-7 "C-1" Local Business District
 - Sec. 3.6 Special Use Permits
8. Planning Commission Meeting Draft Minutes
9. Ordinance





City of
New Braunfels



APPLICATION FOR SPECIAL USE PERMIT

550 LANDA STREET
NEW BRAUNFELS TX 78130

E-MAIL: planning@nbtexas.org

PHONE: (830) 221-4050

PLANNING

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name: Mrs. Gerald M. Boyd

Mailing Address: 2400 E CESAR CHAVES #302, AUSTIN TX 78702

Telephone: 361-732-1654 Fax: _____ Mobile: same

Email: dawnboyd5@hotmail.com

2. Property Address/Location: 731 N Walnut Ave., New Braunfels, TX 78130

3. Legal Description:

Name of Subdivision: WALNUT HEIGHTS, UNIT 1

Lot(s): LOT 1D-R Block(s): 1 Acreage: 192,686 SF (4.42 AC)

4. Existing Use of Property: VACANT

5. Current Zoning: C1

6. Check if Proposed Special Use Permit is: Type 1 X OR Type 2 _____

7. Proposed Use of Property and/or Reason for request (attach additional or supporting information if necessary):

OWNER WISHES TO ACCOMPLISH A NEW CONSTRUCTION FOR A COMMERCIAL VENUE WHICH INCLUDES AN INDOOR MUSIC VENUE. THIS VENUE WOULD BE AKIN TO A THEATER FOR LIVE DRAMA OR A BAR/TAVERN WITH INDOOR MUSIC PER THE ZONING GUIDE. WE FEEL THAT WITH PROPER COMPLIANCE TO EXISTING REGULATIONS THIS USE SHOULD BE ALLOWED ON THIS PROPERTY.
FURTHERMORE WE BELIEVE THAT AN OUTDOOR MUSIC VENUE, ADJACENT TO RAILROAD TRACKS AND BUFFERED BY THE NEW INDOOR MUSIC VENUE (SEE SITE PLAN) WOULD BE A REASONABLE USE ON THIS PROPERTY.

8. ATTACHMENTS: SEE ATTACHED DRAWINGS

- ☒ Metes and bounds description and survey if property is not platted.
☒ Map of property in relation to City limits/major roadways or surrounding area.
☒ If requesting a Type 2 Special Use Permit, applicant must attach a development/site plan as described on pages 2 and 3 of this application.
☒ Copy of deed showing current ownership.
☒ Mailed notification _____ x 2.15 each = _____ Notification signs _____ x \$15 each = _____
☒ Newspaper Notice 115.00 each

The undersigned hereby requests rezoning of the above described property as indicated.

4.25.18

Mrs. Gerald M. Boyd
Signature of Owner(s)/Agent

Date
Do Mrs. Gerald M. Boyd, owner
Print Name & Title

Fee Received By: <u>KC</u>	For Office Use Only <u>\$795</u>	<u>245028</u>
<u>AD</u>	Amount: <u>\$680.00</u>	Receipt No.: <u>244992</u>
Date Received: <u>04/25/18</u>	Zoning signs issued: _____	Date: _____ No.: _____

5/11/18

un.box studio

PREDESIGN REPORT

CONTENTS

PD1	PROJECT INFORMATION	3
PD2	EXISTING SURVEY.....	5
PD3	PROPOSED SITE, AREA AND OCCUPANCY PLANS	7
PD4	PRECEDENT CONCEPT IMAGES	10
PD5	TENTATIVE SCHEDULE.....	13
PD6	TEAM INFORMATION.....	15

PD1

PROJECT INFORMATION

PROJECT INFORMATION:

Address	731 N Walnut Ave. New Braunfels, TX 78130
Zoning:	C-1 Local business district
Neighborhood:	Walnut Heights
Zoning Overlays:	100 Year flood plain
Applicable Codes:	2015 International Building Code - Local Amendments 2015 International Energy Code - Local Amendments 2015 International Fire Code - Local Amendments 2015 International Residential Code - Local Amendments 2014 National Electrical Code - Local Amendments
Design Standards:	Non-Residential and Multifamily Design Standards Drainage Design Criteria Manual, Type 3 report required
Parking:	1 space / 4 occ. (see Zoning Ordinance 5.1-3)
Height Max:	35 ft
Setback:	
Front Yard:	25 ft
Rear Yard:	20 ft
Side Yard_Street:	6 ft (see New Braunfels Zoning Ordinance 3.3-7 (b)(1))
Side Yard_Interior:	6 ft (see New Braunfels Zoning Ordinance 3.3-7 (b)(1))
Lot Size:	192,686 sf
Existing Areas:	
Gross Floor Area:	Not Applicable
Building Coverage:	Not Applicable
Impervious Coverage:	13,014 sf

SCOPE

Site:	<ul style="list-style-type: none"> • Indoor music venue • Outdoor covered bar(s) • Food trailer court with outdoor dining • Lounge seating area • Yard game area • Parking as necessary per City of New Braunfels requirements • Covered outdoor stage
Building A:	<ul style="list-style-type: none"> • Bar and music venue with adjacent covered stage Approximately 15,000 sf (gross floor area)
Building B:	<ul style="list-style-type: none"> • Restrooms and covered stage Approximately 2,000 sf (gross floor area)

PROPOSED AREAS

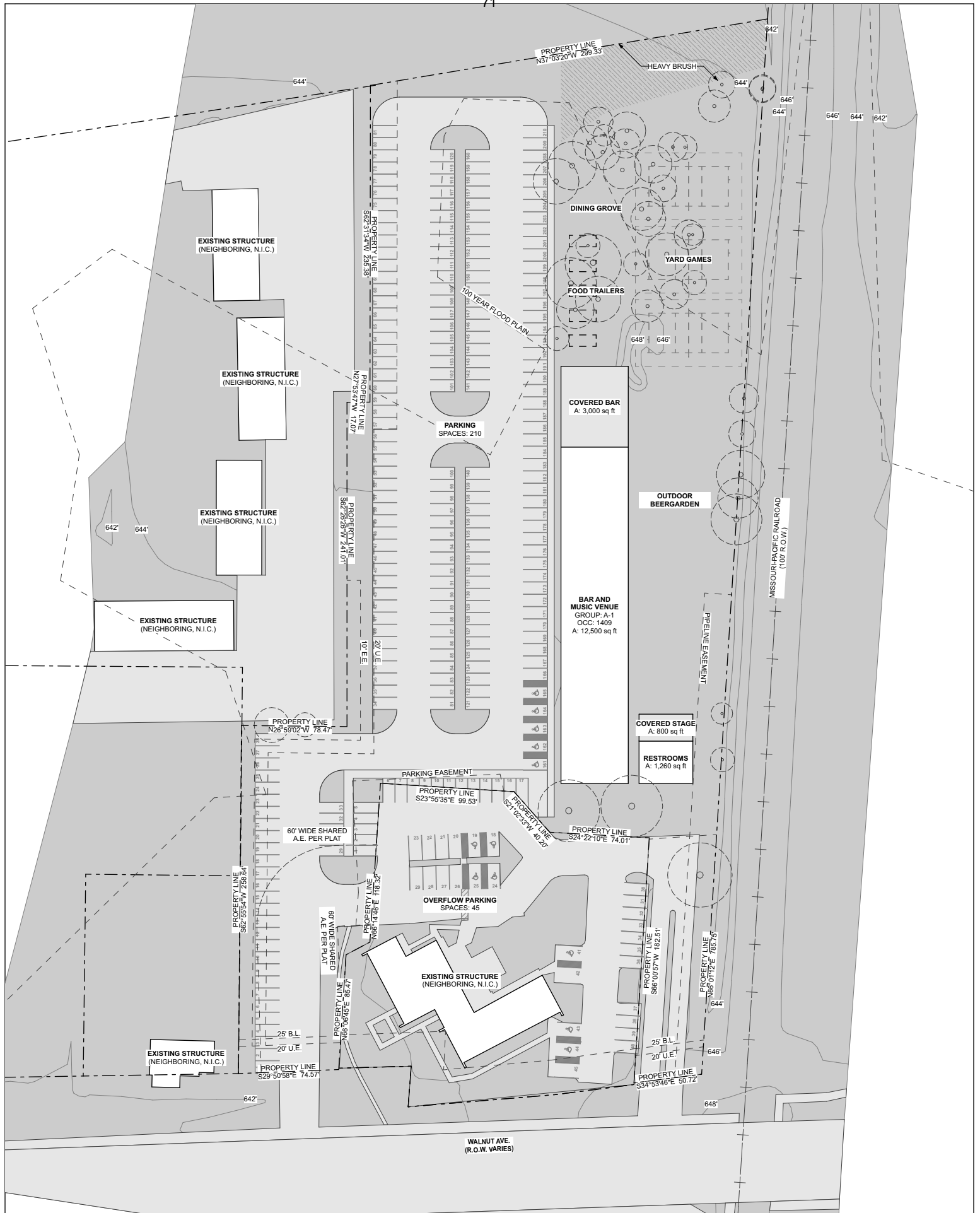
Building A:	12500.0 sf
Building B:	1260.0 sf
Gross Floor Area:	13760.0 sf
Building Coverage:	17560.0 sf
Impervious Coverage:	100,899 sf (approx. 52%)
Parking Spaces:	210 off-street + 45 neighboring lot off-street
	1 space / 75 sf gross floor area = 167 required spaces (see New Braunfels Zoning Ordinance)

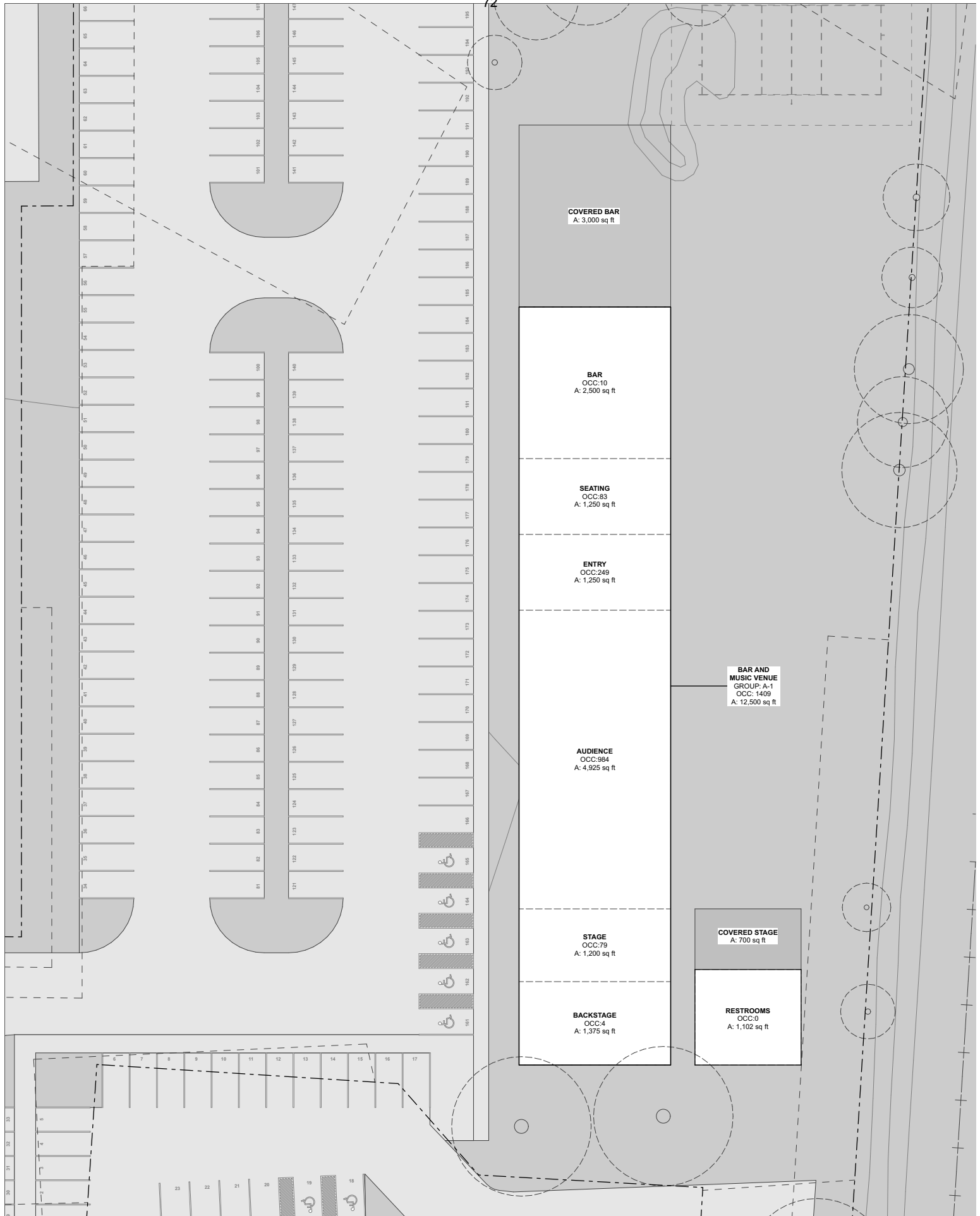
PD2

EXISTING SURVEY

PD3

PROPOSED SITE, AREA AND OCCUPANCY PLANS

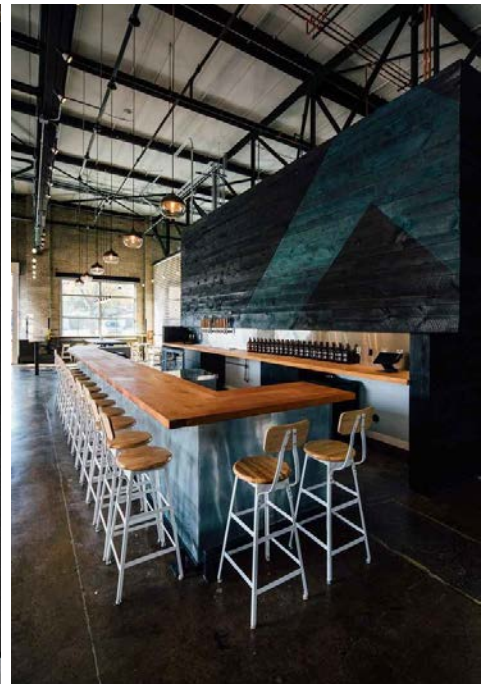
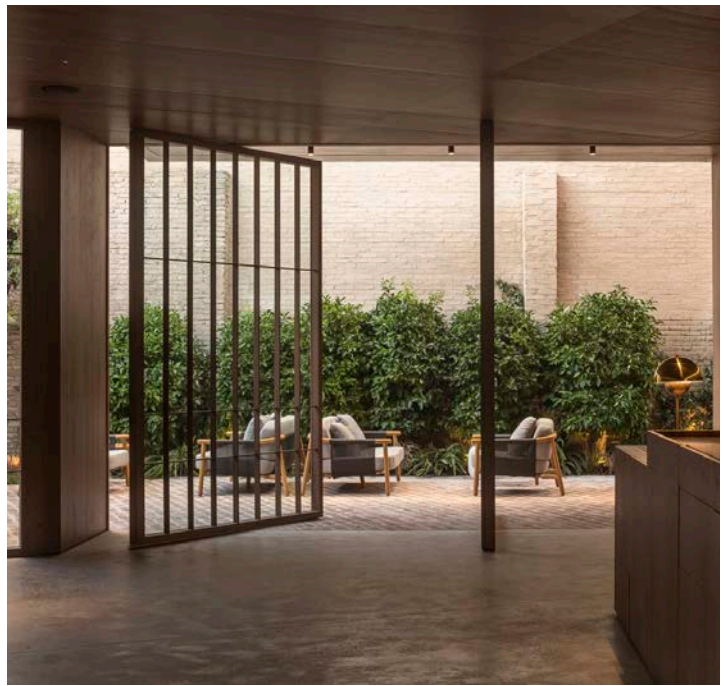




PD4

PRECEDENT CONCEPT IMAGES





PD5

TENTATIVE SCHEDULE

01 : PRE DESIGN

Description: Report detailing existing conditions, proposed site and area plans, design precedents, and preliminary feasibility.
 Duration: 1-2 Weeks
 Delivery: Spring 2018

02 : SCHEMATIC DESIGN

Description: Schematic building design drawings and model.
 Duration: 4-6 Weeks
 Delivery: Summer 2018

03 : CONSTRUCTION DOCUMENTS

Description: Complete drawing set for permitting, pricing, and construction.
 Duration: 12-16 Weeks
 Delivery: Winter 2018

04 : CONSTRUCTION ADMINISTRATION

Description: Coordination and observation of design implementation during construction process.
 Duration: 36-52+ Weeks
 Delivery: Spring 2019+

05 : POST DESIGN

Description: Photography & marketing, and follow-ups.
 Duration: 2 Weeks - Indefinitely
 Delivery: Spring 2019

PD6

TEAM INFORMATION

CLIENT

Owner: Justin and Garrett Boyd
 Address: 312 W Stassney Ln
 Austin, TX 78745
 Email: garrett@kingdomnightclub.com
 [Garret Boyd]
 jboyd@swbc.com
 [Justin Boyd]
 Phone: 512.850.3840 [Garrett Boyd]
 Phone: 512.796.7526 [Justin Boyd]

CIVIL ENGINEER

Name: Southwest Engineers
 Owner: Chris Dringenberg
 Address: 205 Cimarron Park Loop, ste. B
 Buda, TX 78610
 Email: chris.dringenburg@swengineers.com
 Phone: 512.312.4336

BUILDING DESIGNER

Name: un.box studio
 Owner: Jared Haas
 Designer: Charlie Russell
 Address: 2400 E Cesar Chavez St. #302
 Austin, TX 78702
 Email: haas@un-boxstudio.com
 [Jared Haas]
 charlie.russell@un-boxstudio.com
 [Charlie Russell]
 Phone: 512.474.2544

SURVEYOR

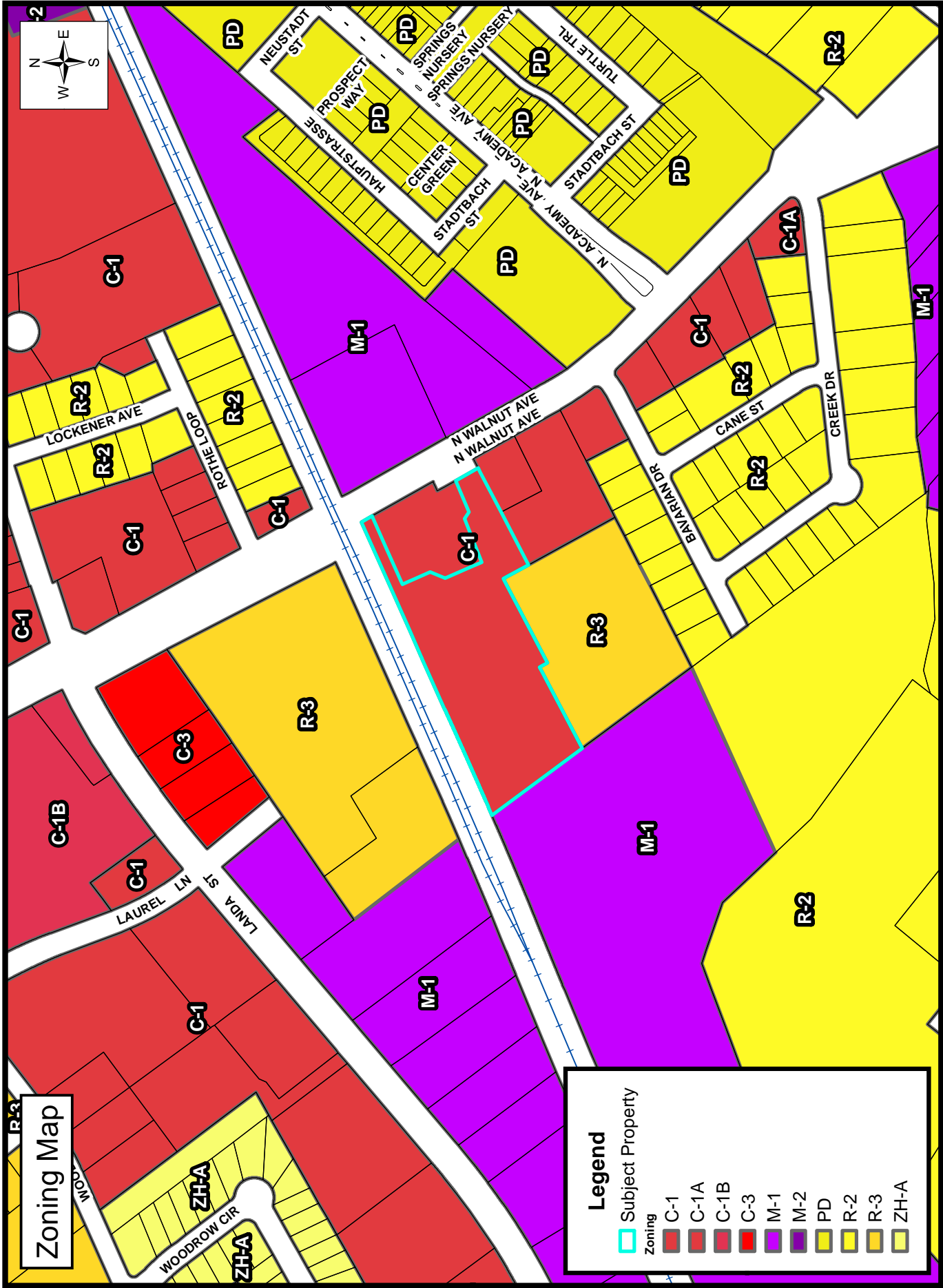
Name: HMT Engineering & Surveying
 Owner: Douglas B. Cottle
 Address: 410 N. Seguin Ave.
 New Braunfels, TX 78130
 Email: kristenn@hmtnb.com
 Phone: 830.625.8555

GENERAL CONTRACTOR

TBD

STRUCTURAL ENGINEER

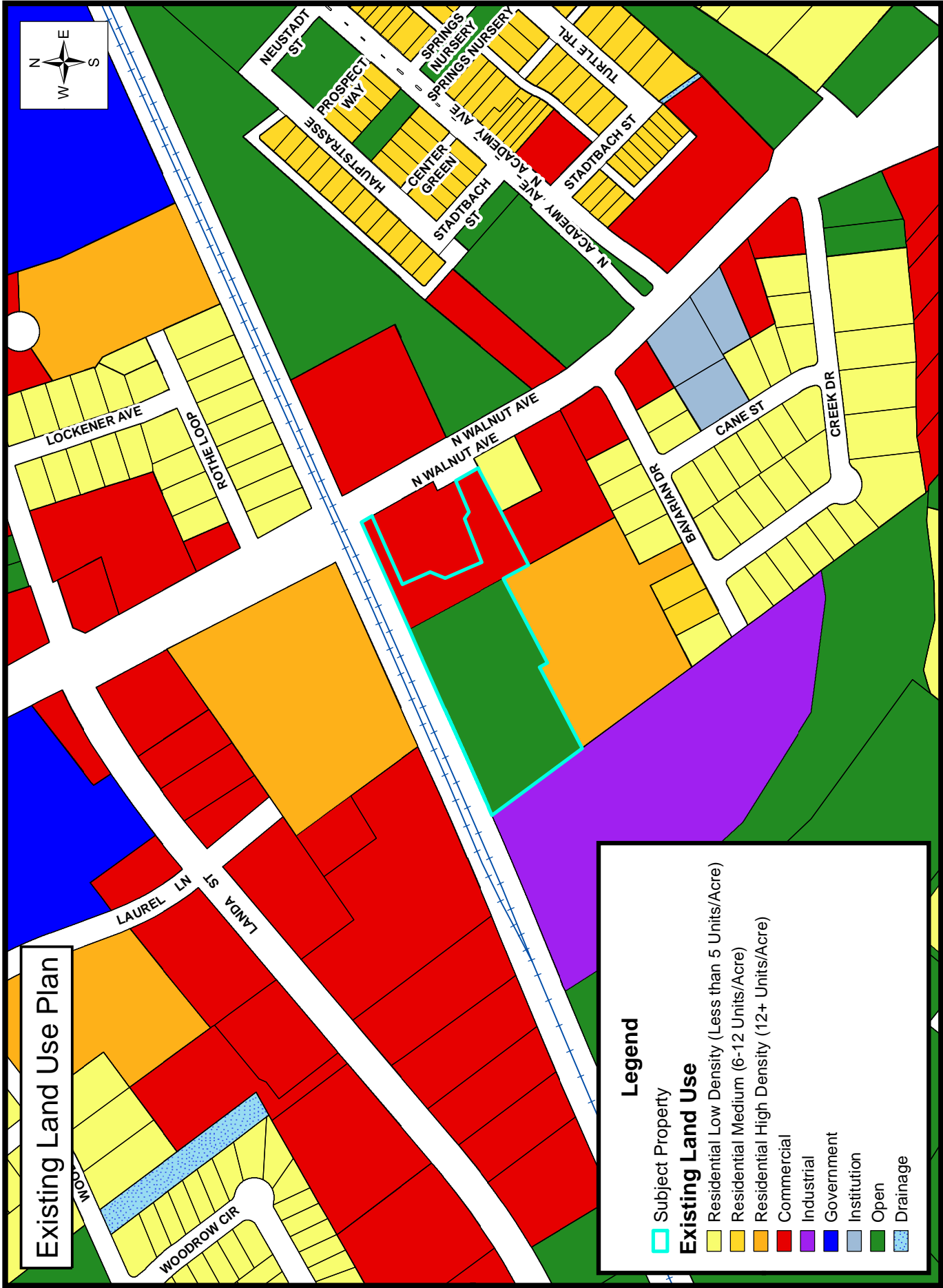
TBD

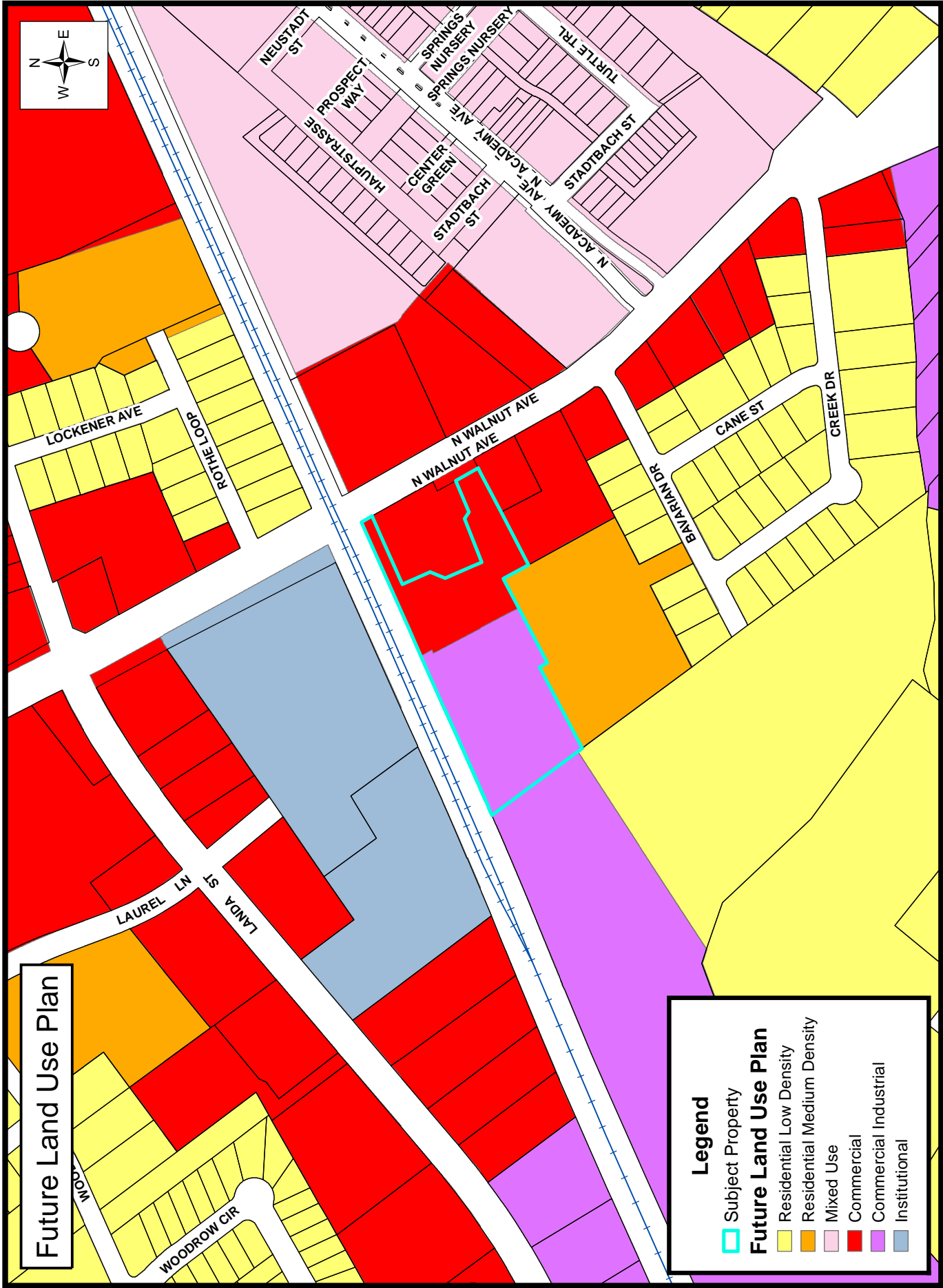


PZ-18-017

731 N. Walnut Ave.

SUP to allow a dance hall with outdoor music in the C-1 district





PZ-18-017
731 N. Walnut Ave.
 SUP to allow a dance hall with outdoor music in the C-1 district

PLANNING COMMISSION – July 3, 2018 – 6:00PM

New Braunfels City Hall Council Chambers

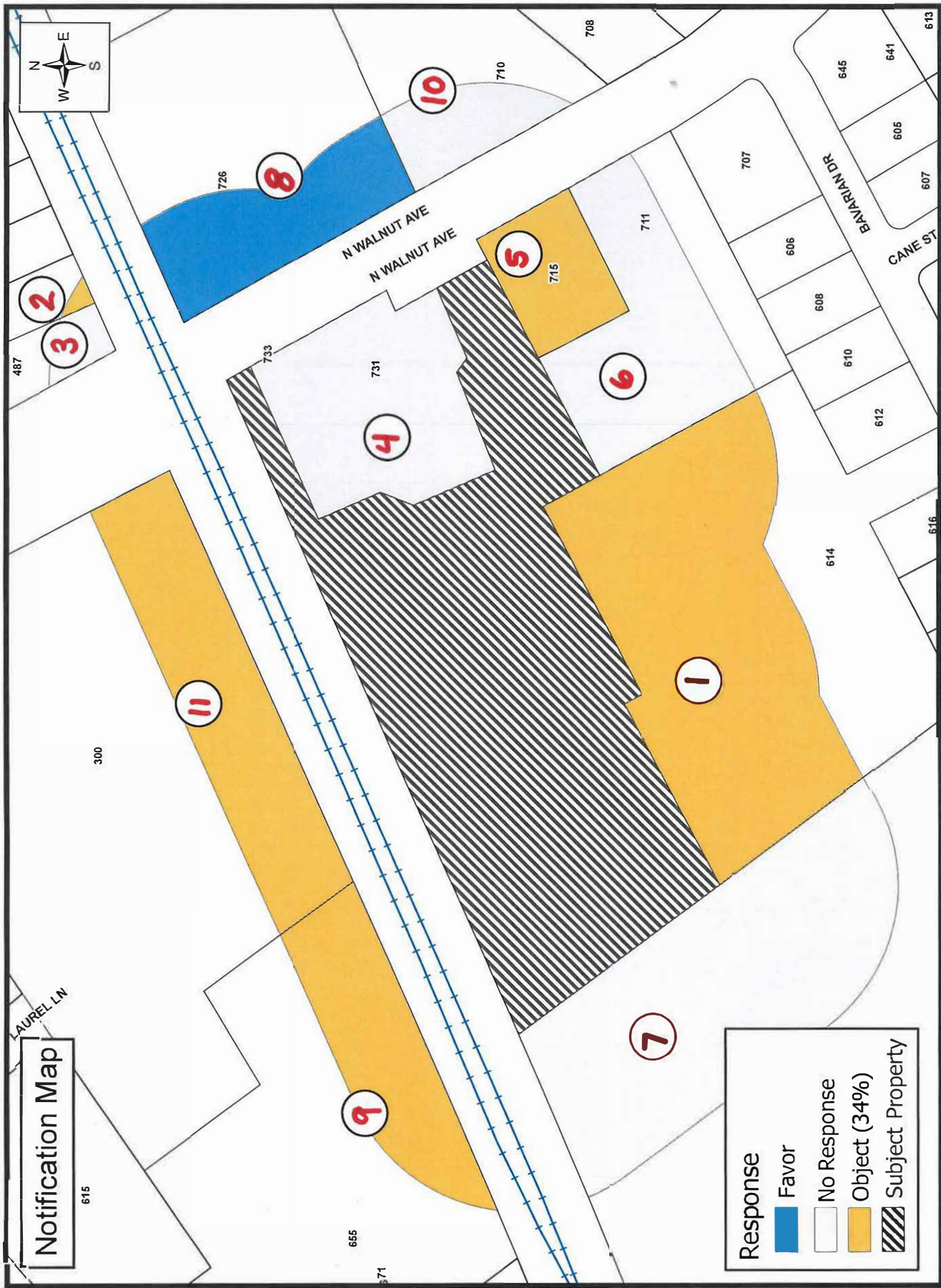
Applicant/Owner: Mrs. Gerald M. Boyd**Address/Location:** 731 N. Walnut Ave.**PROPOSED SPECIAL USE PERMIT – CASE #PZ-18-017**

The circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as “Subject Property”.

- 1 T G 104 INC
- 2 CLASSEN WAYNE
- 3 NEWMAN JOEL
- 4 Property Owner
- 5 SYDENSTRICKER DELORES JEAN
- 6 HANSMANN ROY L ET AL

- 7 LIBERTY PARTNERSHIP LTD
- 8 SCHRIEWER PROPERTIES LLC
- COMAL COUNTY SENIOR CITIZENS
- 9 FOUNDATION
- 10 Property Owner
- 11 HOUSING AUTHORITY OF CITY OF N B

SEE MAP



Map Created 6/15/2018

PL-18-017
Lot 1D-R, Block 1, Walnut Heights Unit 1
SUP to allow a bar and music venue with outdoor music



TG 104, Inc. opposes the requested Special Use Permit – Case #PZ-18-017 to allow for an outdoor music venue because we feel it will negatively impact the ability of our residents at Bavarian Manor Apartments, which is immediately adjacent to the subject site, to use and enjoy their homes.

The Applicant has not contacted us for our input or provided any information about the proposed use to promote a discussion that ensures what is planned allows him to maximize the use of his property without infringing on our ability to enjoy ours.

After meeting with City Planning Staff, we learned that the Applicant did provide a proposed site plan in his application; however, the application is a "Type 1" application which we understand means that any permit granted will not be limited to a specific site plan for the venue and the location of any proposed stages could change to the detriment of our residents. In an effort to learn more about what is proposed, we have requested a copy of the complete Special Use Permit Application and any associated documents from the City Secretary under the Freedom of Information Act.

We understand that the Applicant's property is currently zoned C-1 and allows for a bar or tavern with an indoor music venue but specifically prohibits any use as an outdoor music venue, precipitating the need for a Special Use Permit. We believe that prohibiting an outdoor music venue is appropriate given the close proximity of residential apartment homes that include significant numbers of elderly and disable residents on both the northern and southern borders of the subject property at the Laurel Place and Bavarian Manor Apartments, respectively.

While no information was provided concerning the hours of operation, it would make sense that the desire would be to have music played outdoors in the evenings and on weekends when most residents would be home and be most negatively impacted by outdoor music being played.

For the reasons detailed above, we would like to formally express our objection and opposition to the requested Special Use Permit and ask that both the Planning Commission and City Council deny this request.

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-017 ms,

Name: Gilbert Piette, Executive Director, TG 104, Inc.

Address: 614 Bavarian Dr, New Braunfels TX 78130

Property number on map: 1

I favor: _____

I object: ☒ _____

(State reason for objection)

Comments: (Use additional sheets if necessary)

SEE ATTACHED

Signature: _____



86
YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-017 ms

Name: WAYNE CLASSEN

I favor: _____

Address: _____

Property number on map: 2

I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

*Just got rid of train noise. Dont want music all night.
Property was zoned for a reason leave as is,*

Signature: Wayne R Classen

RECEIVED

JUN 27 2018

BY:

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-017 ms

Name: DELORES J. SYDENSTRICKER

I favor: _____

Address: 715 N. WALNUT AVE,

Property number on map: # 5

I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

*mailing address; P.O. Box 34325
SAN ANTONIO, TX, 78265*

Signature: DJ Sydenstricker

RECEIVED

JUN 19 2018

BY:

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-017 ms

Name: Housing Authority
P.O. Box 310906

Address: New Braunfels, TX 78131-0906

Property number on map: 11

I favor: _____

I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: Shirley H. H. H.
SECRETARY

RECEIVED

JUN 27 2018

BY:

*NBHA Board will pass
resolution opposing.*

*100 Elderly
& disabled
residents at
300 Laurel far*

6-19-18

**Housing Authority of the City of New Braunfels
Laurel Plaza Residents
300 Laurel Lane
P.O.BOX 310906
NEW BRAUNFELS, TEXAS 78131-0906**


June 20, 2018

New Braunfels City Council
City of New Braunfels
550 Landa Street
New Braunfels, Texas 78130

Dear Council Members,

This letter is to officially object to the re-zoning Special Use Permit - Case #PZ-18-017 to allow a bar and music venue with OUTDOOR MUSIC on approximately 4.43 acres of land across the railroad tracks from Laurel Plaza Apartments. Laurel Plaza Apartments is a 100 residential unit apartment complex for the elderly and disabled. A venue of this magnitude would greatly impact the residential use of this multi-family property and greatly impact the civil rights of these residents.

Sincerely,


Sharon Samples
Board of Commissioners
Resident Commissioner
for the New Braunfels
Housing Authority

DETACH & RETURN THIS PORTION IF YOU WISH TO SUBMIT WRITTEN COMMENT

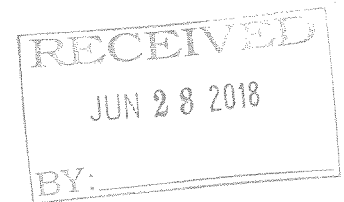
Case: Z-18-011 MS (546 S. Academy)

Name: Kelly A. BarnesAddress: 510 S. Academy AveCircled property number from map: 8

Comments: (Use additional sheets if necessary)

Signature: Kelly A. BarnesI favor: ☒I object: ☐
(State reason for objection)

\\chfs-1\Departments\Planning\ZBA Files\2018 Cases\Z-18-011 Kelly\NPH\Z-18-011 npf.docx



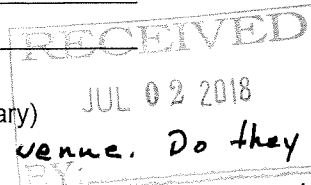
YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-017 ms

Name: Ken Lowery (Executive Director)Address: 655 LandaProperty number on map: 9

Comments: (Use additional sheets if necessary)

Not knowing the plan for this venue. Do they include a security fence along the railroad tracks and possibly a sound wall? I am also concerned about the parking in the area.

Signature: Ken LoweryI object: ☒

(State reason for objection)



Subject Property Entrance from Walnut Ave.



Facing Walnut Ave. on Subject Property



Subject Property Facing Bavarian Manor



Subject Property Facing north Toward Railroad

3.3-7. "C-1" local business district. The following regulations shall apply in all "C-1" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Assisted living facility/retirement home
- Boardinghouse/lodging house
- Community home (see definition)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home Occupation (see Sec. 5.5)
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Rental or occupancy for less than one month (see Sec. 5.17)
- Residential use in buildings with the following non-residential uses
- Single or two family industrialized home (see Sec. 5.8)

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care with overnight stay
- Ambulance service (private)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Automobile driving school (including defensive driving)
- Bakery (retail)
- Bank, savings and loan, or credit union
- Bar/Tavern (No outdoor music)
- Barber/beauty college (barber or cosmetology school or college)
- Barber/beauty shop, haircutting (non-college)
- Barns and farm equipment storage (related to agricultural uses)
- Battery charging station
- Bicycle sales and/or repair
- Book binding
- Book store
- Cafeteria / café / delicatessen
- Campers' supplies
- Cemetery and/or mausoleum
- Check cashing service
- Child day care/children's nursery (business)
- Church/place of religious assembly
- Cleaning, pressing and dyeing (non-explosive fluids used)

Clinic (dental)
 Clinic (medical)
 Clinic (emergency care)
 Club (private)
 Coffee shop
 Communication equipment (installation and/or repair)
 Community building (associated with residential uses)
 Computer and electronic sales
 Computer repair
 Consignment shop
 Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)
 Convenience store with or without fuel sales
 Country club (private)
 Credit agency
 Curio shops
 Custom work shops
 Day camp
 Department store
 Drapery shop / blind shop
 Drug sales/pharmacy
 Electrical repair shop
 Electrical substation
 Exterminator service
 Farmers market (produce market - wholesale)
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)
 Filling station (fuel tanks must be below the ground)
 Florist
 Food or grocery store with or without fuel sales
 Fraternal organization/civic club (private club)
 Frozen food storage for individual or family use
 Funeral home/mortuary
 Furniture sales (indoor)
 Garden shops and greenhouses
 Golf course (miniature)
 Golf course, public or private
 Governmental building or use with no outside storage
 Greenhouse (commercial)
 Handicraft shop
 Hardware store
 Health club (physical fitness; indoors only)
 Hospice
 Hospital, general (acute care/chronic care)
 Hospital, rehabilitation
 Hotel/motel
 Hotels/motels - extended stay (residence hotels)
 Ice delivery stations (for storage and sale of ice at retail only)
 Kiosk (providing a retail service)
 Laundromat and laundry pickup stations
 Laundry/dry cleaning (drop off/pick up)
 Laundry/washateria (self serve)
 Lawnmower sales and/or repair
 Locksmith

Martial arts school
 Medical supplies and equipment
 Mini-warehouse/self storage units (no boat / RV storage permitted; no outside storage)
 Motion picture studio, commercial film
 Motion picture theater (indoors)
 Museum
 Needlework shop
 Nursing/convalescent home/sanitarium
 Offices, brokerage services
 Offices, business or professional
 Offices, computer programming and data processing
 Offices, consulting
 Offices, engineering, architecture, surveying or similar
 Offices, health services
 Offices, insurance agency
 Offices, legal services - including court reporting
 Offices, medical offices
 Offices, real estate
 Offices, security/commodity brokers, dealers, exchanges and financial services
 Park and/or playground (public or private)
 Parking lots (for passenger car only) (not as incidental to the main use)
 Pawn shop
 Pet shop / supplies (10,000 sq. ft. or less)
 Photographic printing/duplicating/copy shop or printing shop
 Photographic studio (no sale of cameras or supplies)
 Photographic supply
 Plant nursery (growing for commercial purposes with retail sales on site)
 Plant nursery (retail sales / outdoor storage)
 Plumbing shop
 Public recreation/services building for public park/playground areas
 Radio/television shop, electronics, computer repair
 Recreation buildings (public)
 Refreshment/beverage stand
 Restaurant/prepared food sales
 Restaurant with drive through service
 Retail store and shopping center with drive through service (50,000 sq. ft. bldg. or less)
 Retirement home/home for the aged
 School, K-12 (public or private)
 School, vocational (business/commercial trade)
 Security monitoring company
 Shoe repair shops
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
 Studio for radio or television (without tower)
 Tailor shop (see home occupation)
 Telecommunications towers/antennas (see Sec. 5.7)
 Telemarketing agency
 Telephone exchange buildings (office only)
 Theater (non-motion picture; live drama)
 Tool rental

Travel agency
 University or college (public or private)
 Upholstery shop (non-auto)
 Vacuum cleaner sales and repair
 Video rental / sales
 Water storage (surface, underground or overhead), water wells
 and pumping stations that are part of a public or municipal
 system
 Woodworking shop (ornamental)

Any comparable business or use not included in or excluded from
 any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the Land
 Use Matrix and those listed in Subsection (1), the uses listed in this
 subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) Non-residential uses.

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required
 except that where a side line of a lot in this district abuts upon
 the side line of a lot in a "R" or "B-1" zone, a side building
 setback of not less than six feet shall be provided.

(iv) *Rear building setback.* 20 feet.

(v) *Residential setback.* Effective November 8, 2006, where a
 non-residential building abuts a one or two family use or zoning
 district, the setback from the one or two family property line shall
 be at least 20 feet plus one foot for each foot of building height
 over 20 feet.

(vi) *Width of lot.* The minimum width of a lot shall be 40 feet,
 provided that where a lot has less width than required and such
 lot was in separate ownership prior to February 4, 1984, this
 requirement will not prohibit the construction of a use
 enumerated in this district.

(vii) *Corner lots.* A minimum 25-foot front yard and side building
 setback adjacent to streets shall be required on all corner lots. A
 canopy at least six feet in height, attached to the main building,
 may be built within 15 feet of the street line so long as such
 construction is not supported by columns which will obstruct the
 vision of vehicles driving upon adjacent streets.

(viii) *Parking.* See Section 5.1. for permitted uses parking.

(2) One family dwellings.

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one family detached dwelling. See Section 5.1 for other permitted uses' parking.

(3) Duplexes.

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks

adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Section 5.1 for other permitted uses' parking.

(4) Multifamily dwellings.

(i) *Height.* 35 feet; 50 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the City Sanitarian.

(ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit . . . 1 1/2 spaces
2. Two-bedroom apartment or unit . . . 2 spaces
3. Each Additional bedroom . . . 1/2 space
4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

See Section 5.1 for other permitted uses' parking.

3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

Types of Special Use Permit:

Type 1. Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

Type 2. Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
 - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
 - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
 - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
 - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - (7) Required yards and open space;
 - (8) Height and bulk of structures;
 - (9) Hours of operation;
 - (10) Paving of streets, alleys, and sidewalks,
 - (11) Provisions for drainage,
 - (12) Exterior construction material and building design; and
 - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
- 3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).
- 3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:
- (a) Construction is not begun within five years of the date of approval of the permit.
 - (b) Progress toward completion is not being made. Progress toward completion includes the following:
 - (1) An application for a final plat is submitted;
 - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
 - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
 - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
 - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
 - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
 - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
 - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
 - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
 - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
 - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
 - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
 - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

Draft Minutes for the July 3, 2018 Planning Commission Regular Meeting

PZ-18-017: Public hearing and recommendation to City Council regarding the proposed rezoning request to apply a Special Use Permit to allow a bar and music venue with outdoor music in the “C-1” Local Business District, on 4.43 acres of property consisting of Lot 1D-R, Block 1, Walnut Heights Subdivision located adjacent and west of property addressed at 731 N. Walnut Avenue.

(Applicant: Gerald Boyd; Case Manager: M. Simmont)

Mr. Simmont presented the Staff report and recommended denial. He stated should the Planning Commission recommend approval of the request, Staff recommended the following conditions:

1. In accordance with Section 2.1 of the zoning ordinance, a traffic impact analysis worksheet is submitted which may indicate a full traffic impact analysis needs to be completed prior to final approval of rezoning.
2. A residential buffer with a masonry wall and shade trees in compliance with Section 5.3-2(h) is required along the entire northern and southern property boundaries.
3. Outdoor music must comply with the City’s Noise Ordinance.
4. All required landscaping must be irrigated with an automatic underground system.

Chair Edwards asked if anyone wished to speak in favor.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

Mickey Lloyd, 45 Prestonwood, stated he was the property manager of an adjacent multifamily property represented as number 11 on the notification map and wished to speak in opposition. He explained the multifamily development was owned by the New Braunfels Housing Authority and the residents were over the age of 65 or disabled. He expressed concerns regarding the potential for negative impacts on the residents.

Sharon Samples, a member of the New Braunfels Housing Authority Board, wished to speak in opposition. She stated they had collected approximately 70 signatures from residents of the multifamily development in opposition to the request. She expressed concerns regarding crime, noise levels and disruption of the peace. He stated agreement with the Staff recommendation of denial.

Delores Sydenstricker, 715 N. Walnut Avenue, represented as number 5 on the notification map, wished to speak in opposition. She expressed concerns regarding the increased traffic, noise levels, litter, crime, fire, decreased property values and the proximity of driveways to her residential driveway.

Brad McMurry, 614 Bavarian Drive, stated he was the property manager of an adjacent multifamily property represented as number 1 on the notification map and wished to speak in opposition. He expressed concerns regarding the outdoor music, noise levels and hours of operation. He expressed his belief that the proposed use would not preserve the character and integrity of the existing neighborhood. He stated agreement with the Staff recommendation of denial.

Motion by Commissioner Reaves, seconded by Vice Chair Sonier, to close the public hearing. The motion carried (8-0-0).

Motion by Commissioner Reaves, seconded by Commissioner Gibson, to recommend denial to City Council regarding the proposed rezoning request to apply a Special Use Permit to allow a bar and music venue with outdoor music in the “C-1” Local Business District, on 4.43 acres of property consisting of Lot 1D-R, Block 1, Walnut Heights Subdivision located adjacent and west of property addressed at 731 N. Walnut Avenue. Motion carried (8-0-0).

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 1 SPECIAL USE PERMIT TO ALLOW A DANCE HALL WITH OUTDOOR MUSIC IN THE "C-1" LOCAL BUSINESS DISTRICT, ON LOT 1D-R, BLOCK 1, WALNUT HEIGHTS SUBDIVISION, UNIT 1, WHICH SURROUNDS BUT DOES NOT INCLUDE THE PROPERTY ADDRESSED AT 731 NORTH WALNUT AVENUE; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

WHEREAS, the City also recognizes that granting such a permit is possible while promoting the health, safety, and general welfare of the public, by providing harmony between existing zoning districts and land uses; and

WHEREAS, it is the intent of the City to ensure for the health, safety and general welfare of the public by providing compatibility and orderly development, which may be suitable only in certain locations in a zoning district through the implementation of a Special Use Permit meeting those requirements cited in Sections 3.6-2 and 3.6-3, Chapter 144, of the New Braunfels Code of Ordinances; and

WHEREAS, the property is located in an area suitable for the allowed use; and

WHEREAS, the City Council desires to grant a Type 1 Special Use Permit for Lot 1D-R, Block 1, Walnut Heights Subdivision, Unit 1, which surrounds but does not include the property addressed at 731 North Walnut Avenue, to allow a dance hall with outdoor music in the "C-1" Local Business District; **now therefore**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following described tract of land and illustrated in Exhibit "A" as a "Special Use Permit" for the uses and conditions herein described:

"Being Lot 1D-R, Block 1, Walnut Heights Subdivision, Unit 1, which surrounds but does not include the property addressed at 731 North Walnut Avenue, Exhibit "A", to allow a dance hall with outdoor music in the "C-1" Local Business District."

SECTION 2

THAT the Special Use Permit be subject to the following additional restrictions:

1. A residential buffer with a masonry wall and shade trees in compliance with Section 5.3-2(h) is required along the entire northern and southern property boundaries.
2. Outdoor music must comply with the City's Noise Ordinance.
3. All required landscaping must be irrigated with an automatic underground system.

SECTION 3

THAT all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 23th day of July, 2018.

PASSED AND APPROVED: Second Reading this the 13th day of August, 2018.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

#201406036303

REPLAT ESTABLISHING WALNUT HEIGHTS, UNIT 1, BLOCK 1, LOT 1D-R

BEING LOT 1B, BLOCK ONE, WALNUT HEIGHTS, UNIT ONE, RECORDED IN VOL. 7, PG. 127, MAP AND PLAT RECORDS, COMAL COUNTY, TEXAS, AND LOT 1D, WALNUT HEIGHTS SUBDIVISION, UNIT 1, RECORDED IN VOL. 8, PG. 92, MAP AND PLAT RECORDS, COMAL COUNTY, TEXAS.

Line Table		
Line #	Length	Direction
L1	74.43'	S24°09'43"E
L2	40.15'	S21°02'08"W
L3	99.36'	S23°57'41"E
L4	20.06'	S55°24'28"E
L5	85.70'	N65°58'07"E
L6	181.88'	S66°39'00"W
L7	74.00'	S23°21'00"E

Line Table		
Line #	Length	Direction
L8	40.00'	S21°39'00"W
L9	100.00'	S23°21'00"E
L10	118.02'	N66°39'00"E
L11	20.00'	S55°12'20"E
L12	85.56'	N66°39'00"E
L13	78.45'	N26°44'57"W
L14	17.00'	N26°44'57"W

SCALE: 1"=200'

VACATE

LOT 1B, BLOCK ONE, WALNUT HEIGHTS, UNIT ONE, RECORDED IN VOL. 7, PG. 127, MAP AND PLAT RECORDS, COMAL COUNTY, TEXAS, AND LOT 1D, WALNUT HEIGHTS SUBDIVISION, UNIT 1, RECORDED IN VOL. 8, PG. 92, MAP AND PLAT RECORDS, COMAL COUNTY, TEXAS.

PLAT NOTES:
1. ALL LOTS WITHIN THE SUBDIVISION WILL BE PROVIDED WATER, SEWER AND ELECTRIC SERVICE BY NEW BRAUNFELS UTILITIES. TELEPHONE AND CABLE SERVICES FOR THE SUBDIVISION WILL BE PROVIDED BY AT&T COMMUNICATIONS AND/OR TIME WARNER.
2. BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (4204), NORTH AMERICAN DATUM 1983.
3. PERMANENT AND STABLE MONUMENTATION WAS FOUND OR SET FOR ALL CORNERS ON THE OUTER BOUNDARY OF THIS PLAT. PROPERTY CORNERS WERE SET WITH 1/2" IRON PIN WITH PLASTIC CAP STAMPED "HMT" WHERE PRACTICAL. OTHERWISE, A MONUMENT THAT IS PERMANENT AND STABLE WAS USED.
4. CONTOUR LINES SHOWN HEREON WERE DERIVED FROM COMAL COUNTY GIS.
5. THIS SUBDIVISION IS WITHIN THE EDWARDS AQUIFER TRANSITION ZONE.
6. THIS SUBDIVISION IS WITHIN THE CITY LIMITS OF NEW BRAUNFELS, TEXAS.
7. THE SUBDIVISION IS WITHIN THE NEW BRAUNFELS INDEPENDENT SCHOOL DISTRICT.
8. THIS PROPERTY IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA, AS DEFINED BY FLOOD INSURANCE RATE MAP FOR COMAL COUNTY, TEXAS, ON COMMUNITY PANEL NUMBER 4809IC0435F EFFECTIVE DATE SEPTEMBER 2, 2009, AS PREPARED BY FEDERAL EMERGENCY MANAGEMENT AGENCY.
9. NO STRUCTURES, WALLS OR OTHER OBSTRUCTIONS OF ANY KIND SHALL BE PLACED WITHIN THE LIMITS OF THE DRAINAGE EASEMENTS SHOWN ON THIS PLAT. NO LANDSCAPING, FENCES, OR OTHER TYPE OF MODIFICATIONS WHICH ALTER THE CROSS SECTIONS OF THE DRAINAGE EASEMENTS OR REDUCE THE DRAINAGE CAPACITY OF THE EASEMENT, AS APPROVED, SHALL BE ALLOWED WITHOUT THE APPROVAL OF THE ENGINEER OF RECORD.
10. THE RIGHT OF INGRESS AND EGRESS OVER GRANTORS' ADJACENT PROPERTY FOR THE PURPOSES OF CONSTRUCTION SHALL BE PLACED WITHIN THE LIMITS OF SAID DRAINAGE EASEMENTS AND TO MAKE ANY MODIFICATIONS OR IMPROVEMENTS WITHIN SAID DRAINAGE EASEMENTS.
11. NO STRUCTURES IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC WATER AND SEWER SYSTEM WHICH HAS BEEN APPROVED BY NEW BRAUNFELS UTILITIES.
12. FUTURE DEVELOPMENT IS SUBJECT TO CHAPTER 114 (STREETS, SIDEWALKS AND OTHER PUBLIC SPACES) OF THE NEW BRAUNFELS CODE OF ORDINANCES.
13. THE 60' SHARED ACCESS EASEMENT IS FOR USE OF LOTS 1C AND 1D-R.
14. THE ELEVATION OF THE LOWEST FLOOR SHALL BE AT LEAST 10 INCHES ABOVE THE FINISHED GRADE OF THE SURROUNDING GROUND, WHICH SHALL BE SLOPED IN A FASHION SO AS TO DIRECT STORMWATER AWAY FROM THE STRUCTURE. PROPERTIES ADJACENT TO STORMWATER CONVEYANCE STRUCTURES SHALL BE SLOPED AWAY FROM THE STRUCTURES. NO LOT OR LOT PORTION SHALL BE ONE FOOT ABOVE THE 100-YEAR WATER FLOW ELEVATION IN THE STREET OR ADJACENT AREAS. HOUSES ON THE DOWNHILL SIDE OF THE STREET SHALL HAVE A PROPERLY SIZED CROSS SWALE PREVENTING RUNOFF FROM ENTERING THE GARAGE AND SHALL PREVENT WATER FROM LEAVING THE STREET.
15. THIS SUBDIVISION IS SUBJECT TO THE CITY OF NEW BRAUNFELS PARK LAND DEDICATION AND DEVELOPMENT ORDINANCE. AT SUCH TIME THAT ANY RESIDENTIAL DWELLING UNITS ARE CONSTRUCTED, THE OWNER/DEVELOPER SHALL NOTIFY THE CITY AND COMPLY WITH THE ORDINANCE FOR EACH DWELLING UNIT.
16. NEW BRAUNFELS UTILITIES NOTES:
• MAINTENANCE OF DEDICATED UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE PROPERTY OWNER. ANY USE OF AN EASEMENT, OR ANY PORTION OF IT, INCLUDING LANDSCAPING OR DRAINAGE FEATURES, IS SUBJECT TO AND SHALL NOT CONFLICT WITH THE TERMS AND CONDITIONS IN THE EASEMENT. THE EASEMENT SHALL BE GRANTED TO THE CITY OF NEW BRAUNFELS UTILITIES. THE EASEMENT TO NEW BRAUNFELS UTILITIES, ITS SUCCESSORS AND ASSIGNS, SHALL BE SUBJECT TO THE PERMITS AND REQUIREMENTS OF THE CITY OF NEW BRAUNFELS OR ANY OTHER GOVERNING BODY. THE PROPERTY OWNER MUST OBTAIN, IN ADVANCE, WRITTEN AGREEMENT WITH THE UTILITIES TO UTILIZE THE EASEMENT, OR ANY PART OF IT.
• UTILITIES WILL POSSESS A 5' WIDE SERVICE EASEMENT TO THE DWELLING ALONG THE SERVICE LINE TO THE SERVICE ENTRANCE. THIS EASEMENT WILL VARY DEPENDING UPON LOCATION OF DWELLING AND SERVICE.
• UTILITIES SHALL HAVE ACCESS TO THE METER LOCATIONS FROM THE FRONT YARD AND METER LOCATIONS SHALL NOT BE LOCATED WITHIN A FENCED AREA.
• EACH LOT MUST HAVE ITS OWN WATER AND SEWER SERVICE AT THE OWNER'S/DEVELOPER'S EXPENSE.
• DO NOT COMBINE ANY NEW UTILITY EASEMENTS (U.E.) WITH DRAINAGE EASEMENTS (D.E.) OR MAKE CHANGES IN GRADE WITHIN THE UTILITY EASEMENTS (U.E.) WITHOUT WRITTEN APPROVAL FROM NEW BRAUNFELS UTILITIES.
• EACH TRACT IS SUBJECT TO FLOATING GUY WIRE EASEMENT(S) AND ITS DIMENSIONS SHALL BE DETERMINED BY THE NEED OF THE UTILITIES.

Drawing Name: N:\Projects\040-019 - City of New Braunfels\040-019 - Walnut Heights Unit 1 Block 1 - Plat\040-019-101 Plat.dwg User: khloesel Aug 12, 2014 - 10:36am

LOCATION MAP

NOT TO SCALE

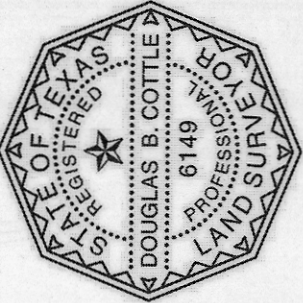
LEGEND:

- B.L. = BUILDING SETBACK LINE
- E.E. = ELECTRIC EASEMENT
- U.E. = UTILITY EASEMENT
- R.O.W. = RIGHT-OF-WAY
- M.P.R.C.C.T. = MAP AND PLAT RECORDS, COMAL COUNTY, TEXAS
- O.P.R.C.C.T. = OFFICIAL PUBLIC RECORDS, COMAL COUNTY, TEXAS
- D.R.C.C.T. = DEED RECORDS, COMAL COUNTY, TEXAS

KNOW ALL MEN BY THESE PRESENTS:

I, THE UNDERSIGNED, DOUGLAS B. COTTLE, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE UNDER MY SUPERVISION AND IN ACCORDANCE WITH THE RULES AND SURVEY REGULATIONS AND LAWS AND MADE ON THE GROUND AND THAT THE CORNER MONUMENTS WERE PROPERLY PLACED UNDER MY SUPERVISION.

DOUGLAS B. COTTLE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6149
410 N. SEGUN AVE., NEW BRAUNFELS, TEXAS 78130



APPROVED THIS 5th DAY OF August 2014
BY THE PLANNING COMMISSION OF THE CITY OF NEW BRAUNFELS, TEXAS.

CHAIRMAN
Amy E. Hood

APPROVED FOR ACCEPTANCE

10/10/14
DATE

10/09/14
DATE

10/16/2014
DATE

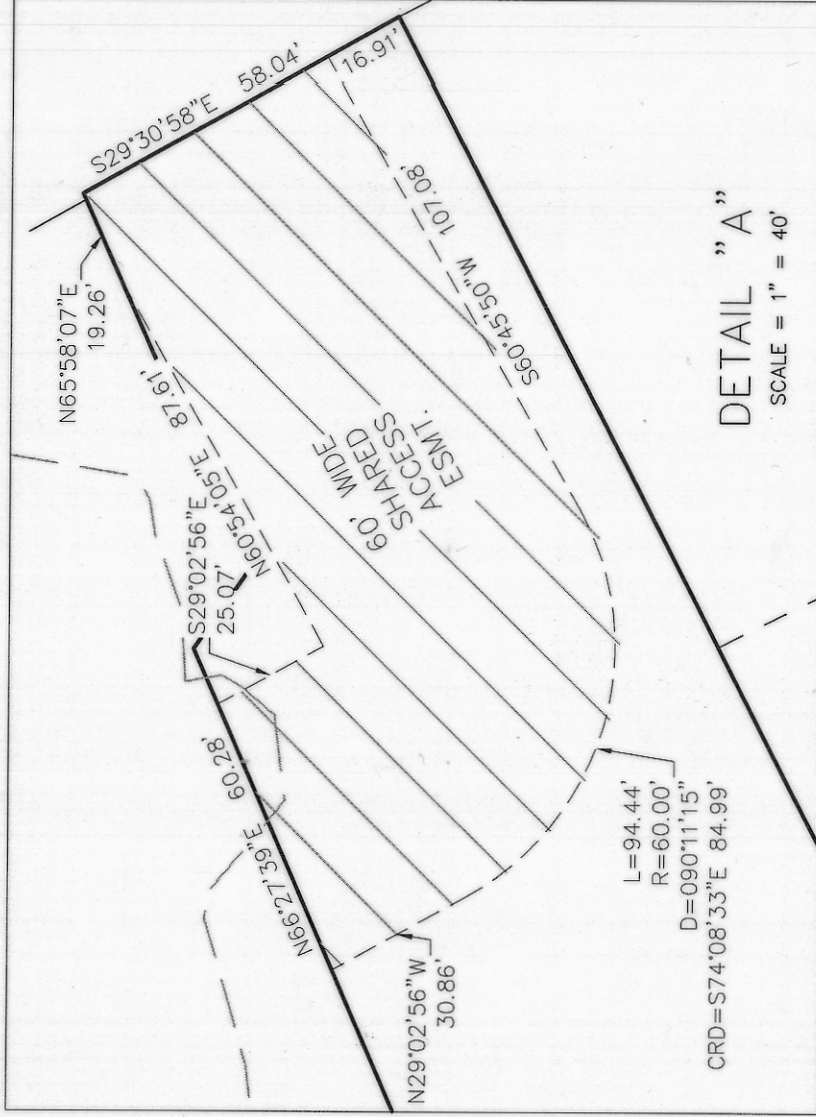
PLANNING DIRECTOR
CITY ENGINEER
NEW BRAUNFELS UTILITIES

STATE OF TEXAS
COUNTY OF COMAL

I, Joy Streator
DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT WAS FILED FOR RECORD IN THE MAP AND PLAT RECORDS OF COMAL COUNTY ON THE 19th DAY OF October 2014 AT 2:10 P.M.

WITNESS MY HAND AND OFFICIAL SEAL, THIS THE 14 DAY OF October 2014

COUNTY CLERK, COMAL COUNTY, TEXAS
Dannay Kowald
DEPUTY



410 N. SEGUN AVE.
NEW BRAUNFELS,
TEXAS, 78130
WWW.HMTNB.COM
PH: (830)625-8555





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. E)

Presenter

*Stacy Snell, Planning and Community Development Assistant Director
ssnell@nbtexas.org*

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a bed and breakfast facility in the "R-2" Single-Family and Two-Family District on 0.21 acres, on property addressed at 286 S. Market Avenue.

BACKGROUND / RATIONALE:

Case No.: PZ-18-015

Council District: 5

Owner/Applicant: Christina Lisk
286 S. Market Ave.
New Braunfels TX, 78130

Staff Contact: Matthew Simmont, Planner
(830) 221-4058
msimmont@nbtexas.org

The subject property is located on the northwest corner of the intersection of S. Market Avenue and Napoleon Street. The property is approximately 9,900 square feet in area and is occupied by a 977 square foot single-family residence built in 1895 and a 340 square foot accessory dwelling unit built in 1920. The City's Historic Preservation Officer has noted that the property is likely eligible for historic designation.

This request is to allow the property owner to operate a bed & breakfast in an existing house in the R -2 zoning district. Bed & Breakfasts (B&Bs) are specifically defined in the zoning ordinance. An important distinction of a bed & breakfast is the requirement for the facility to be owner-occupied in residential zoning districts. The applicant intends to occupy either the residence or the accessory dwelling and rent the other to B&B guests as needed.

The house contains two bedrooms and the accessory dwelling unit contains one bedroom. The zoning ordinance requires one paved parking space per guest room plus one for the owner, for a total of three spaces. There is sufficient paved parking to meet this requirement as there are 4 existing parking spaces. Parking along the street in the neighborhood is restricted to permit holders during the summer season.

General Information:

Size: = 9,900 square feet (0.218 acres)

Surrounding Zoning and Land Use:

North - Across S. Market Ave., C-4 / Single Family residence
South - R-2 / Single Family residence
East - Across Napoleon St., R-2 / Single Family residence
West - R-2 / Single Family residence

Comprehensive Plan / Future Land Use Designation

Low Density Residential

Floodplain:

No portion of the subject property is within the 100-year floodplain.

Regional Transportation Plan:

The subject property has frontage on S. Market Avenue and Napoleon Street, both classified as local streets. The current right-of-way width of both streets meets or exceeds 50 feet and no additional right-of-way dedication or mitigation measures will be required with the bed & breakfast use of the subject property.

Improvement(s):

Residential structure and accessory dwelling unit

Determination Factors:

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole (*The subject property is zoned R-2 in a neighborhood situated between the Comal River and W. San Antonio Street. The property is approximately ½ mile from Prince Solms Park and Schlitterbahn.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*There do not appear to be any conflicts with these elements.*);
- How other areas designated for similar development will be affected (*There should be no negative impact on other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. (*The use of this property as a bed & breakfast will be subject to the supplemental standards stipulated in Section 5.6 of the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health and to encourage appropriate use of the property*); and
- Whether the request is consistent with the Comprehensive Plan. (*Bed & breakfast use is consistent with the Future Land Use designation of the subject site as Low Density Residential.*)

Supplemental standards for bed and breakfasts are attached and include:

- the facility must be owner-occupied in residential zoning districts;
- one paved parking space per guest room plus one for the owner;
- annual health and safety inspections are required;
- only overnight guests may be served meals, limited to a continental-type breakfast of pre-packaged food unless the facility meets all requirements for commercial food service; and
- weddings, parties and other functions are not permitted unless approved by the Planning and Community Development Department.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

✓	Yes	City Plan/Council Priority: <i>2006 Comprehensive Plan Pros and Cons Based on Policies Plan</i>	Pros: <i>Goal 1 Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities.</i> Authorized overnight rentals contribute to economic expansion through the collection of occupancy tax and visitor dollars spent within the community. Impacts to neighbors are managed through the SUP and development standards for B&B's. Goal 63: Objective B. <i>Special zoning regulations and incentives should be created to promote retail, eating and drinking establishments, bed and breakfast, lodging and entertainment.</i> Approval of the SUP would provide lodging in close proximity to parks, downtown, and other visitor attractions. Cons: None
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FISCAL IMPACT:

If approved, the property will be subject to local and state hotel occupancy tax (HOT).

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on July 3, 2018 and recommended approval with staff's recommendations (8-0-0) with Commissioner Tubb absent.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed Special Use Permit for a Bed & Breakfast at this location. The proposed use of the property will complement the uses in the area while maintaining a residential appearance. The proposal also meets Objectives of the City's Comprehensive Plan. Staff's recommendation includes the following conditions:

1. The existing residential character and appearance of the buildings must be maintained.
2. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.

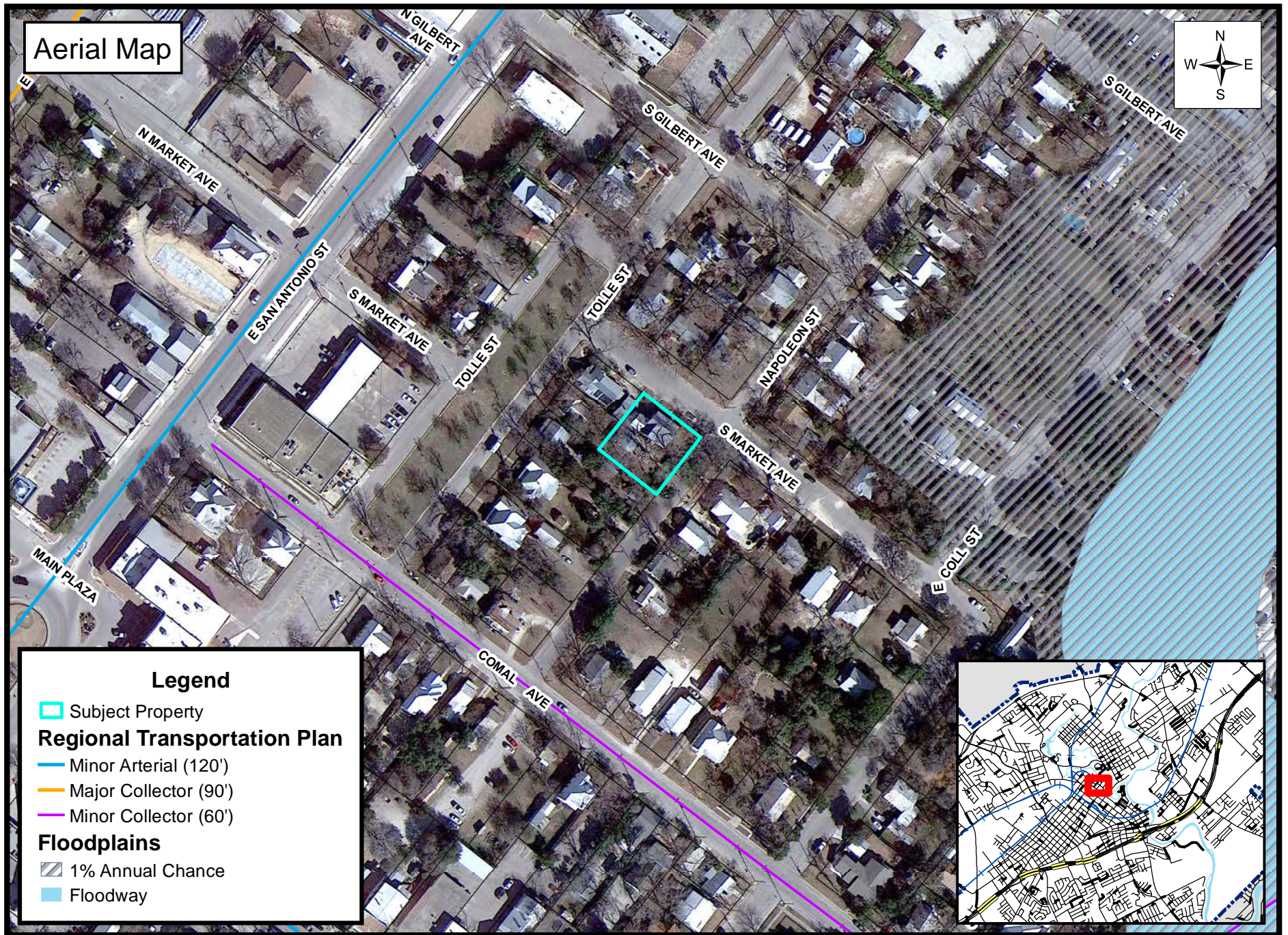
Notification:

Public hearing notices were sent to 22 owners of property within 200 feet of the request. The Planning Division has received one response in favor (#21) and two responses (#'s 10 & 19) in

opposition to the rezoning request.

Attachments:

1. Aerial and Regional Transportation Plan Map
2. Application
3. Site Plan
4. Land Use Maps
 - Zoning
 - Existing Land Use
 - Future Land Use Plan
 - Short Term Rental Vicinity and Parking By Permit Area Map
5. Notification List, Notification Map and Notification Responses
6. Photographs
7. Zoning Ordinance Sections:
 - Sec. 3.3-2 "R-2" Single-Family and Two-Family District
 - Sec. 3.6 Special Use Permits
 - Sec. 5.6 Bed & Breakfast Facilities
8. Planning Commission Meeting Draft Minutes
9. Ordinance





PLANNING

RECEIVED

APR 30 2018

BY: _____

APPLICATION FOR
SPECIAL USE PERMIT550 LANDA STREET
NEW BRAUNFELS TX 78130E-MAIL: planning@nbtexas.org

PHONE: (830) 221-4050

P2-18-015

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name: Christina LiskMailing Address: 286 S Market Ave.Telephone: 210-602-9298 Fax: _____ Mobile: 210-602-9298Email: tourguidetv@gmail.com

2. Property Address/Location: 286 S Market Ave

3. Legal Description:
Name of Subdivision: CITY BLOCK 1008

Lot(s): 147(part of) Block(s): 1008 Acreage: 1.214

4. Existing Use of Property: Home and guest house

5. Current Zoning: R-2

6. Check if Proposed Special Use Permit is: Type 1 _____ OR Type 2 ☒

7. Proposed Use of Property and/or Reason for request (attach additional or supporting information if necessary): use guest house as B3B rental,

8. ATTACHMENTS:

- _____ Metes and bounds description and survey if property is not platted.
_____ Map of property in relation to City limits/major roadways or surrounding area.
_____ If requesting a Type 2 Special Use Permit, applicant must attach a development/site plan as described on pages 2 and 3 of this application.
_____ Copy of deed showing current ownership.
_____ Mailed notification _____ x 2.15 each = _____ Notification signs _____ x \$15 each = _____
_____ Newspaper Notice 115.00 each

The undersigned hereby requests rezoning of the above described property as indicated.

Signature of Owner(s)/Agent

April 30, 2018
Date

Christina Lisk
Print Name & Title

For Office Use Only

Fee Received By: Am Amount: 500 Receipt No.: 244999Date Received: 4/30/18 Zoning signs issued: 2 Date: _____ No.: _____

Council & Planning Board Members,

Thank you for the consideration in obtaining a SUP for my property at 286 S Market St. I am a longtime resident of NB and recently sold a like property off of River Road to purchase 286 S Market St for all the possibilities it has to house family, friends and/or to supplement my work income by going through the process of becoming a B & B.

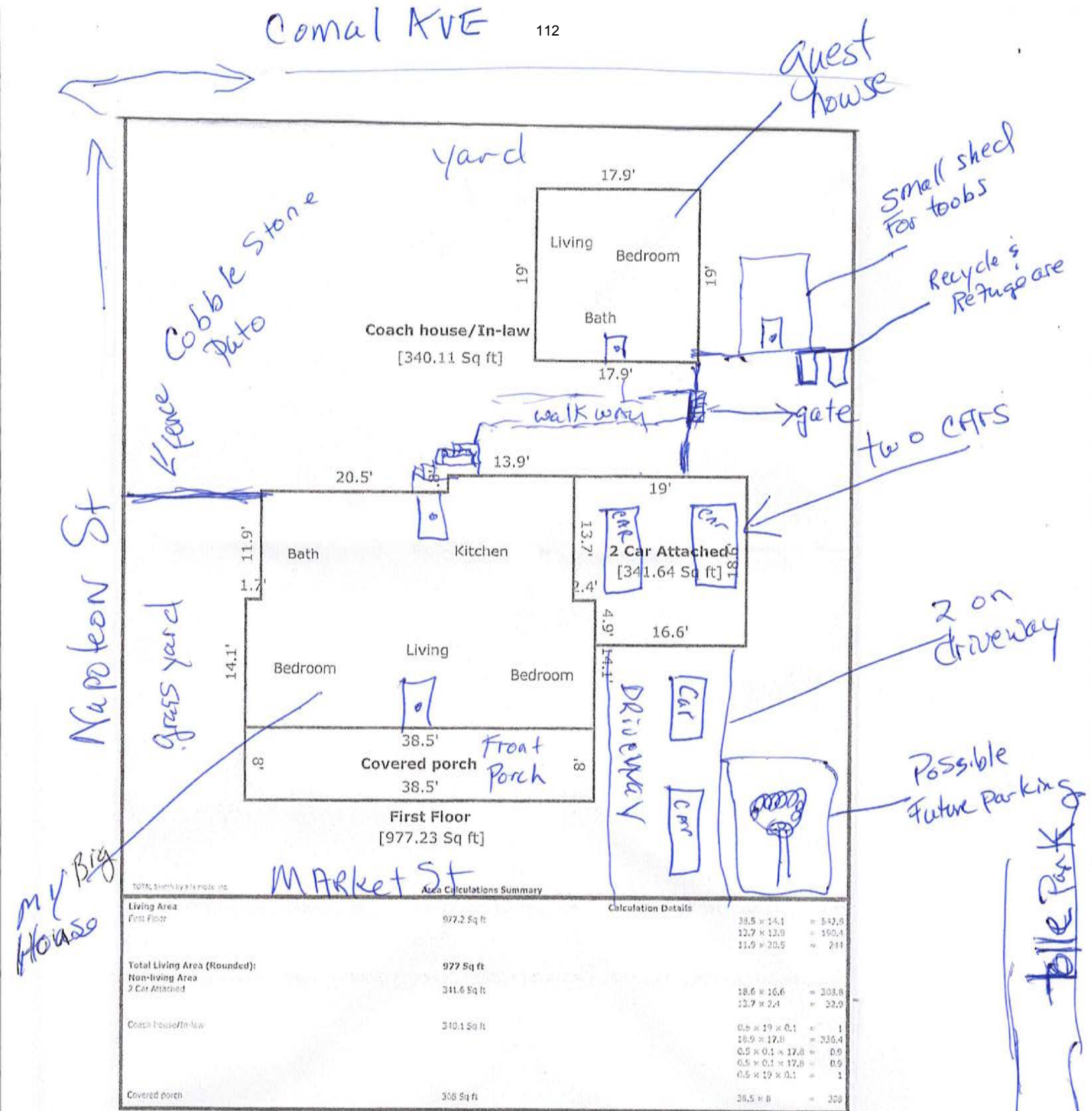
My folks are 85 & 87, my little sister has a disability and with that being said, having a guest house and/or space in my larger house to welcome them when the day comes that they need assistance was a large part of this properties appeal to me. As a single gal, having the opportunity to become a B & B now is equally important in order to save for the day that family may be my only guests.

I work from home which should offer solace that I not only will always live on site but will be on site much of the hours in a day! I hope to have the ability to supplement my income by enjoying our out of town guests as my guests here on Market St. and no doubt will establish lifelong new friendships and return stays from my guests.

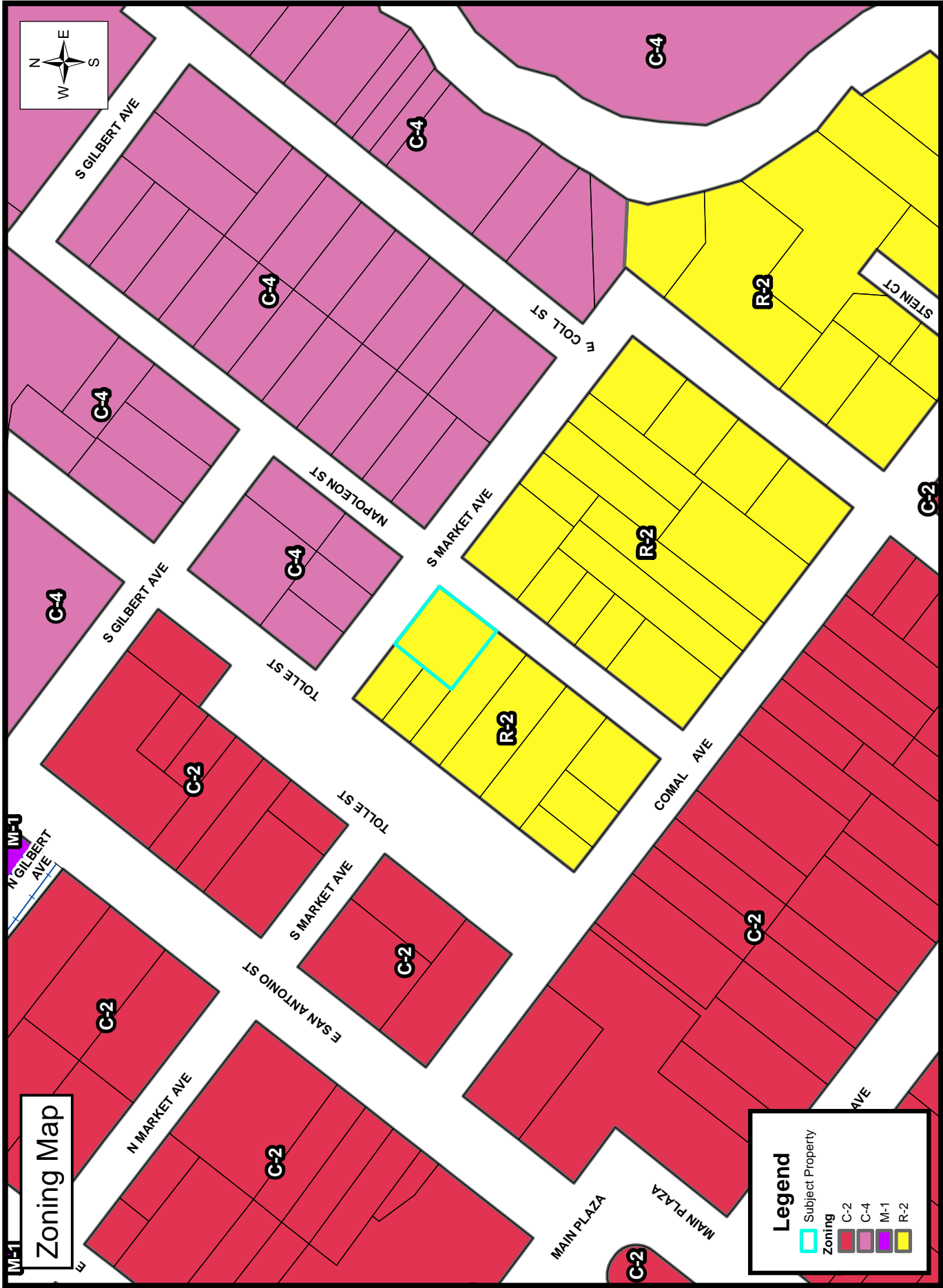
I will reside on property offering guests either of my homes for their stay in order to accommodate their needs, and my needs. The guest house is smaller with no stairs, so younger kids and folks with a hard time with stairs would be more comfortable there and my larger house has two bedrooms and would be suited for a family. I mention this to be completely transparent in asking for my variance or SUP as I read it to be in covering my property as a B & B and lend the flexibility to offer guests either of my homes. I intend to use my home as a B & B and not for special events, simply a staycation B & B.

I understand the responsibility of respecting my neighbor's privacy, respecting their property and maintaining an overall peaceful neighborhood atmosphere. I have a beautiful property with great trees, patio areas and all within a few blocks walking distance to the river, diners and the heart of downtown. I hope to have the ability to share my property with our out of town guests, generate a bit of income and find heaps of joy in meeting folks that call our town their home away from home!

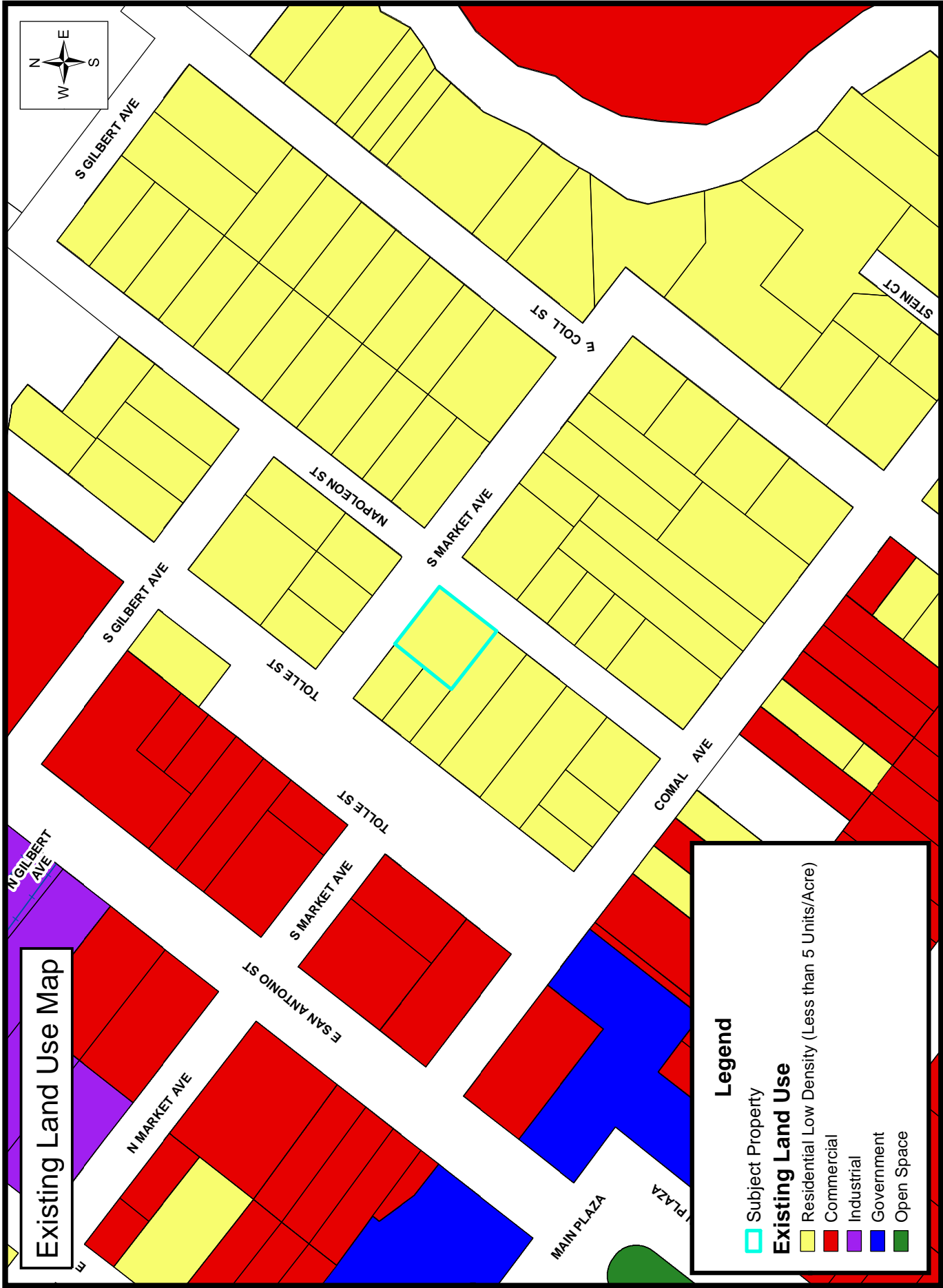
Thank you,

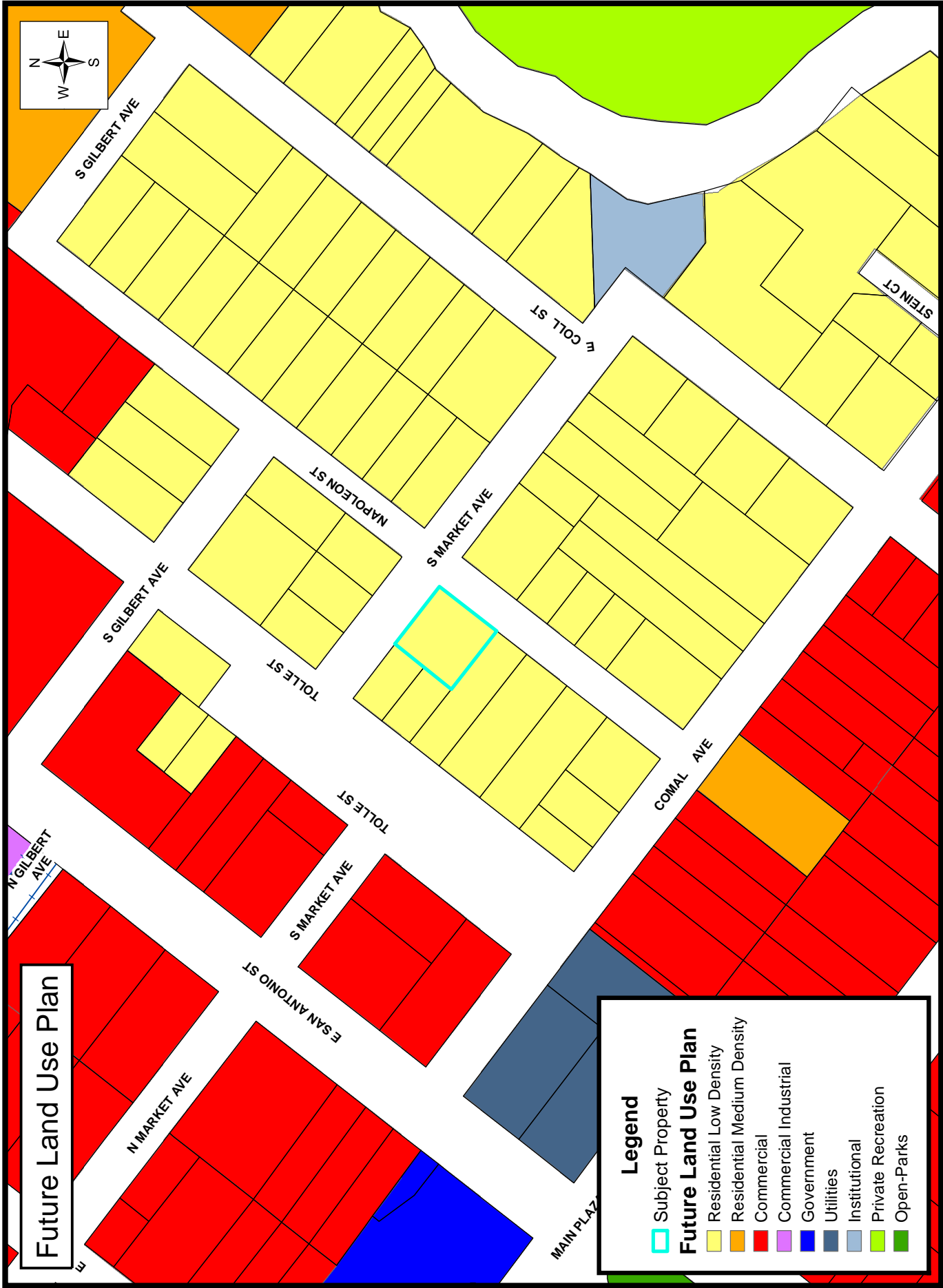


Property back yard fully fenced and Private
 Can accomadate 4 cars in driveway
 286 S. Market - homes are on the
 corner of Market & Napoleon with Comal 4
 houses away!



PZ-18-015
286 S. Market Ave.
 SUP to allow a bed and breakfast in the R-2 district





PLANNING COMMISSION – July 3, 2018 – 6:00PM

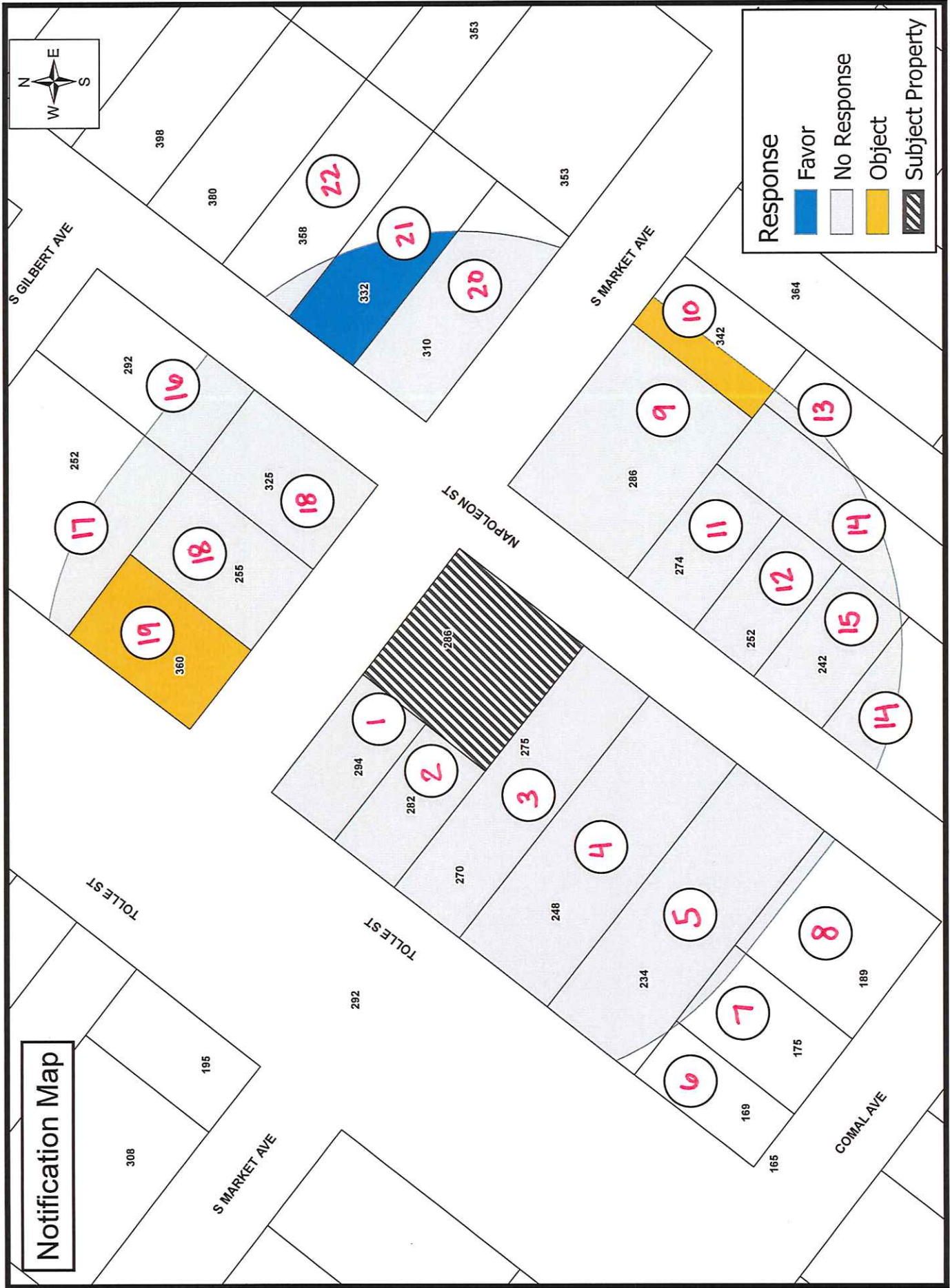
New Braunfels City Hall Council Chambers

Applicant/Owner: Christina Lisk**Address/Location:** 286 S. Market Ave.**PROPOSED SPECIAL USE PERMIT – CASE #PZ-18-015**

The circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as “Subject Property”.

- | | | | |
|----|-----------------------------|----|--------------------------------------|
| 1 | WOOD ALEXANDER C III | 12 | MILLS JOSEPHINE O |
| 2 | CALDERON GLORIA | 13 | SCHORN CAROL |
| 3 | CARRILLO SECUNDINO & MARY S | 14 | TURNER WILLIAM E |
| 4 | BUTTROSS AL M | 15 | MOSEL MICHAEL EDWARD |
| 5 | ROWDEN JAMES EDWARD | 16 | OWENS JASON C & KAARINE L |
| 6 | MILLHOLLON DONNA ET AL | 17 | DAVIS LARRY & CATHRYN |
| 7 | DIERKS AT AVENUE Q LLC | 18 | LEATHERWOOD SHERRY PAULETTE |
| 8 | AMARO ANTONIO ET AL | 19 | CHILES GENE T & ROSALIE B RVCBL TRST |
| 9 | TOWERY PARKER R & VICKI E A | 20 | RUSE TIMOTHY J ET AL |
| 10 | RAMSDELL ELAINE H | 21 | FUTCH LENON |
| 11 | 3 SHARES LLC & ANNE GEHRING | 22 | BODEN WILLIAM C |

SEE MAP



Map Created 6/14/2018

PL-18-015
286 S. Market Ave.
Special Use Permit for a Bed and Breakfast

YOUR OPINION MATTERS¹⁸ - DETACH AND RETURN

Case: #PZ-18-015 ms

Name: Elaine Ramsdell

I favor: _____

Address: 342 S. Market St N.B. TX 78130

Property number on map: City Block 1009 Lot S60 of
J E 95 Lot 150(G) (#10)

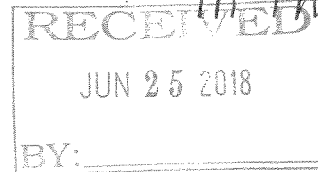
I object: ☒

Comments: (Use additional sheets if necessary)

(State reason for objection)

no parking space
in the neighborhood

Signature: Elaine Ramsdell
Janice Neff POA



Matthew W. Simmont

From: Gene Chiles <genechiles@gmail.com>
Sent: Friday, June 22, 2018 10:45 AM
To: Matthew W. Simmont
Subject: Zoning hearing

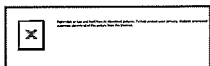
#19

My wife and I (through a revocable trust) own the property at 360 Tolle Street which is currently leased. As indicated below we live in Austin and will not be able to attend the hearing July 3.

While we do not object strongly we would prefer this property not be granted a bed and breakfast permit. It would not be the end of the world if this would happen we just prefer it not be granted and if granted that it be limited to the current owner.

Gene Chiles

Gene T. Chiles, Attorney at Law
 6207 Bend of the River Drive
 Austin, Texas 78746
 512-327-5988



Commercial and Residential Real Estate Law

This communication may be protected by attorney/client relationship and may be confidential information transmitted for the exclusive use of the person to whom it is addressed. If you receive this e-mail in error, please immediately notify me by return e-mail, telephone or mail. Thank you.

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-015 ms

Name: LENON FUTCH

I favor: ✓

Address: 332 NAPOLEON

Property number on map: 21

I object: _____

(State reason for objection)

Comments: (Use additional sheets if necessary)

HIGHEST AND BEST USE OF THIS PROPERTY
 PLEASE RESTRICT ANY ADDITIONAL PARKING ON THE
 NARROW ALLEY LIKE NAPOLEON STREET IN THAT BLOCK.

Signature: [Signature]

RECEIVED

JUN 25 2018

BY: _____



Subject Property from S. Market Ave.



Accessory Dwelling Unit

3.3-2. "*R-2*" single-family and two family district. The following regulations shall apply in all "R-2" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Accessory building/structure
- Community home (see definition)
- Duplex/two-family/duplex condominium
- Family home adult care
- Family home child care
- Home Occupation (see Sec. 5.5)
- One family dwelling, detached
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

- Barns and farm equipment storage (related to agricultural uses)
- Cemetery and/or mausoleum
- Church/place of religious assembly
- Community building (associated with residential uses)
- Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)
- Country club (private)
- Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)
- Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)
- Golf course, public and private
- Governmental building or use with no outside storage
- Park and/or playground (private and public)
- Plant nursery (growing for commercial purposes but no retail sales on site)
- Public recreation/services building for public park/playground areas
- Recreation buildings (public)
- School, K-12 (public or private)
- Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

(2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) One family dwellings.

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

- (iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
 - (v) *Rear building setback.* 20 feet.
 - (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
 - (vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one half acre or one acre on the Edwards Aquifer Recharge Zone.
 - (viii) *Lot depth.* 100 feet.
 - (ix) *Parking.* Two off-street parking spaces shall be provided for each one family detached dwelling unit. See Section 5.1 for other permitted uses' parking.
- (2) Duplexes.
- (i) *Height.* 35 feet.
 - (ii) *Front building setback.* 25 feet.
 - (iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
 - (iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
 - (v) *Rear building setback.* 20 feet.
 - (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.
 - (vii) *Lot area per family.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.
 - (viii) *Lot depth.* 100 feet.

- (ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Section 5.1 for other permitted uses' parking.

(3) Non-Residential Uses.

- (i) *Height.* 35 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one or two family use, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Rear building setback.* 20 feet.
- (vii) *Width of lot.* 60 feet.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* See Section 5.1 for permitted uses' parking.

3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

Types of Special Use Permit:

Type 1. Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

Type 2. Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
 - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
 - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
 - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
 - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - (7) Required yards and open space;
 - (8) Height and bulk of structures;
 - (9) Hours of operation;
 - (10) Paving of streets, alleys, and sidewalks,
 - (11) Provisions for drainage,
 - (12) Exterior construction material and building design; and
 - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
- 3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).
- 3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:
- (a) Construction is not begun within five years of the date of approval of the permit.
 - (b) Progress toward completion is not being made. Progress toward completion includes the following:
 - (1) An application for a final plat is submitted;
 - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
 - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
 - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
 - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
 - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
 - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
 - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
 - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
 - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
 - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
 - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
 - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

Bed and Breakfast Inn or Facility(s). A dwelling or grouping of dwellings at which breakfast is served and sleeping accommodations are provided/offered in rooms or unattached units (e.g., cabins) for transient guests for compensation.

5.6. *Bed and breakfast facilities.*

5.6-1 Bed and breakfast facilities are subject to the following requirements:

5.6-2 *Parking.* One off-street parking space per guest room, and one off-street parking space for the owner/proprietor are required.

5.6-3 *Number of guest rooms.* The maximum number of guest rooms shall be eight.

5.6-4 *Length of stay.* The maximum length of stay for each guest shall be limited to 14 consecutive days within any thirty day time period.

5.6-5 *Management.* The facility shall be owner occupied in the residential zoning districts and may be manager occupied in other zoning districts.

5.6-6 *Signs.* Signs shall conform to Chapter 106.

5.6-7 *Health factors:*

- (a) Only overnight guests may be served meals. The meals shall be confined to a continental-type breakfast, consisting of pastries (prepared outside the establishment), milk, cereal, fruit, fruit juice, and coffee, unless the facility meets all State of Texas and City Health Department requirements for commercial food service. Cooking in a guest room is prohibited.
- (b) The owner of the facility shall provide clean linens and towels on a daily basis, provide adequate heating, air conditioning, ventilation and lighting; provide adequate hot and cold water; provide adequate sewage disposal; maintain the outside area in a clean and sanitary manner; maintain the structure(s) in suitable state of repair; and properly clean the premises and facilities during the guests stay and after each guest has departed.
- (c) Each owner of the facility must acquire a permit for the facility from the City Health Department prior to issuance of a Certificate of Occupancy.
- (d) Inspections by the City Health Department will be made on a regular basis and upon demand as required by a complaint. The inspections must be successfully passed.
- (e) Building and fire protection considerations:
 - (1) Owner of Bed and Breakfast facility must obtain a Certificate of Occupancy (C.O.) from the City Building Official after a Special Use Permit is issued, if a Special Use Permit (SUP) is required. The facility must successfully pass the C.O. inspection.
 - (2) The structure(s) must conform to all City and State Building Codes for existing or new construction as the situation dictates.
 - (3) The City Fire Marshal or his representative shall inspect all Bed and Breakfast facilities before a C.O. is issued. The facility must successfully pass the inspection. Regular inspections shall be made on an annual basis.
 - (4) Each Bed and Breakfast facility must comply with the appropriate section on "Lodging and Rooming Houses" contained in NFPA 101 Life Safety Code.
 - (5) Each facility must have at least one battery operated or regular hard wired smoke detector in all guest rooms, stairwells and/or corridors on each floor of the structure.
 - (6) An approved fire extinguisher shall be provided in close proximity to the guest units on each floor.
- (f) *Other activities.* Other activities such as weddings, parties, and other functions are not permitted unless approved by the Planning Director.

Draft Minutes for the July 3, 2018 Planning Commission Regular Meeting

PZ-18-015: Public hearing and recommendation to City Council regarding the proposed rezoning request to apply a Special Use Permit to allow a bed and breakfast facility in the “R-2” Single-Family and Two-Family District, for property addressed at 286 S. Market Avenue.

(Applicant: Christina Lisk; Case Manager: M. Simmont)

Mr. Simmont presented the Staff report and recommended approval with the following requirements:

1. The existing residential character and appearance of the buildings must be maintained.
2. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.

Discussion followed regarding the difference in the requirements for short term rentals and bed and breakfasts.

Commissioner Gibson expressed concerns with potential increase for on-street parking.

Mr. Ford clarified the area was regulated by parking by permit.

Chair Edwards asked if anyone wished to speak in favor.

Christina Lisk, 286 S. Market Avenue, stated she would be living on site and intended to respect the concerns of the neighbors.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Nolte, to recommend approval to City Council regarding the proposed rezoning request to apply a Special Use Permit to allow a bed and breakfast facility in the “R-2” Single-Family and Two-Family District, for property addressed at 286 S. Market Avenue, with Staff recommendations. Motion carried (8-0-0).

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW A BED & BREAKFAST FACILITY IN THE "R-2" SINGLE FAMILY AND TWO FAMILY RESIDENTIAL DISTRICT, ON PART OF LOT 147, NEW CITY BLOCK 1008, ADDRESSED AT 286 SOUTH MARKET AVENUE; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

WHEREAS, the City also recognizes that granting such a permit is possible while promoting the health, safety, and general welfare of the public, by providing harmony between existing zoning districts and land uses; and

WHEREAS, it is the intent of the City to ensure for the health, safety and general welfare of the public by providing compatibility and orderly development, which may be suitable only in certain locations in a zoning district through the implementation of a Special Use Permit meeting those requirements cited in Sections 3.6-2 and 3.6-3, Chapter 144, of the New Braunfels Code of Ordinances; and

WHEREAS, the property is located in an area suitable for bed & breakfast facilities; and

WHEREAS, the City Council desires to grant a Type 2 Special Use Permit for Part of Lot 147, New City Block 1008, addressed at 286 South Market Avenue, to allow a bed & breakfast facility in the "R-2" Single Family and Two Family District; **now therefore**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following described tract of land as a "Special Use Permit" for the uses and conditions herein described:

"Being Part of Lot 147, New City Block 1008, addressed at 286 South Market Avenue, as described in the attached Exhibit 'A' and delineated on the attached Exhibit 'B', to allow a bed & breakfast facility in the "R-2" Single Family and Two Family District."

SECTION 2

THAT the Special Use Permit be subject to the following additional restrictions:

1. The existing residential character and appearance of the buildings must be maintained.
2. The property will remain in compliance with the approved site plan attached as Exhibit 'C'. Any significant changes to the site plan will require a revision to the SUP.

SECTION 3

THAT all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 23rd day of July, 2018.

PASSED AND APPROVED: Second Reading this the 13th day of August, 2018.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

EXHIBIT 'A'

Property: 286 South Market Avenue, New Braunfels, TX 78130

BEING 0.214 ACRES OF LAND, MORE OR LESS, OUT OF LOT 147, NEW CITY BLOCK 1008, CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS; SAID 0.214 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A 0.214 OF AN ACRE TRACT OF LAND OUT OF LOT 147, NEW CITY BLOCK 1008, CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS, AND BEING COMPRISED OF THAT CERTAIN TRACT RECORDED IN VOLUME 89, PAGE 628, DEED RECORDS, AND THAT CERTAIN TRACT RECORDED IN VOLUME 694, PAGE 442, OFFICIAL PUBLIC RECORDS, BOTH OF COMAL COUNTY, TEXAS; SAID 0.214 OF AN ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A P. K. NAIL SET IN A CONCRETE CURB AT THE INTERSECTION OF THE SOUTHWEST RIGHT-OF-WAY LINE OF S. MARKET AVE. WITH THE NORTHWEST RIGHT-OF-WAY LINE OF NAPOLEON ST. FOR THE SOUTH CORNER OF THIS TRACT;

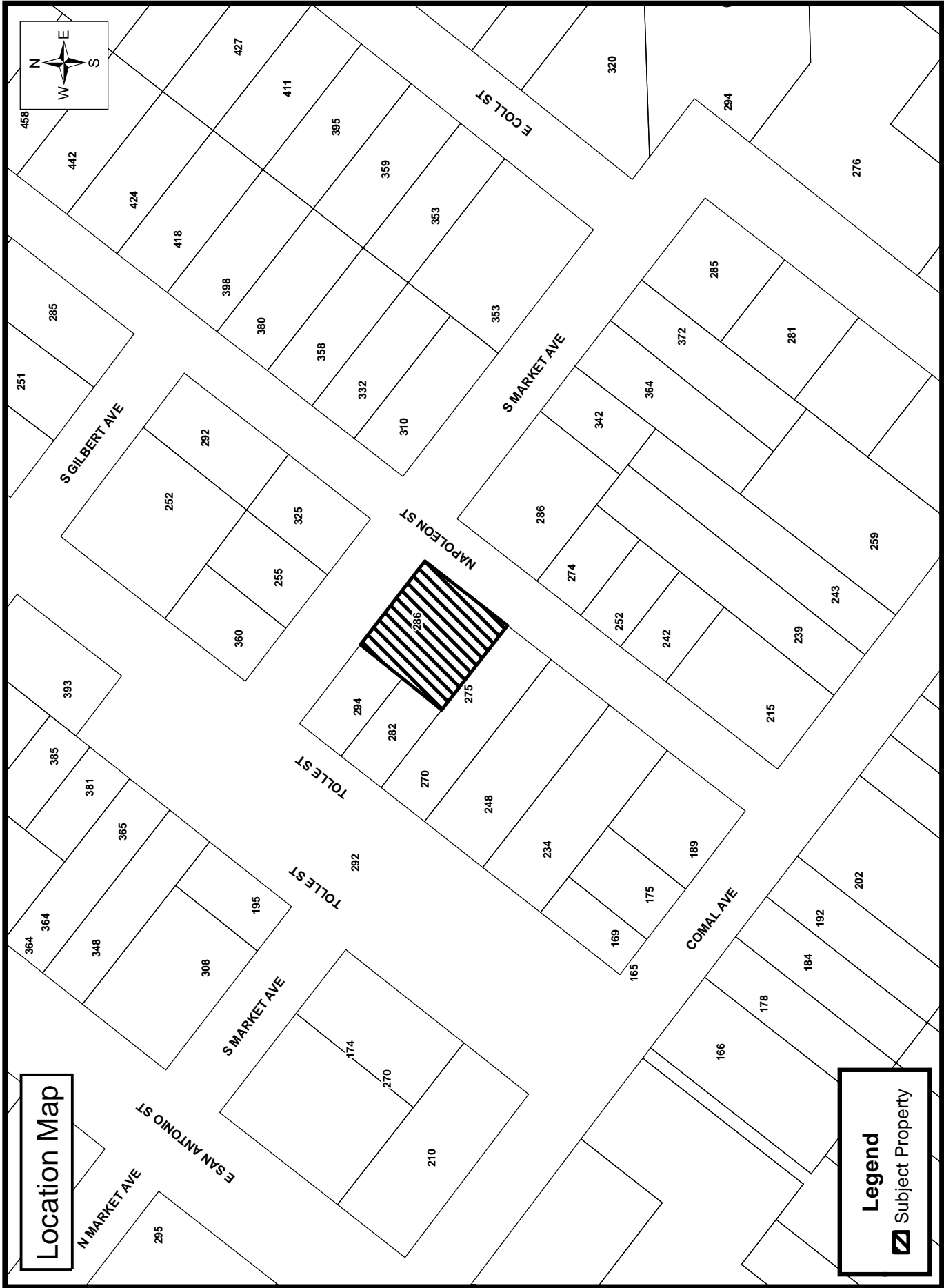
THENCE, ALONG THE COMMON LINE OF THIS TRACT AND SAID RIGHT-OF-WAY LINE OF NAPOLEON ST., S 38°42' W (BASIS OF BEARINGS), A DISTANCE OF 96.24 FEET (CALLED 38°42' W, 97.70') TO A 3/8" IRON ROD SET FOR THE SOUTH CORNER OF THIS TRACT AND THE EAST CORNER OF JERNIGAN TRACT, BEING PART OF LOT 148, RECORDED IN VOLUME 247, PAGE 603, DEED RECORDS, COMAL COUNTY, TEXAS;

THENCE, DEPARTING SAID RIGHT-OF-WAY LINE, ALONG THE COMMON LINE OF THIS TRACT AND SAID JERNIGAN TRACT, N 51°24'20" W, A DISTANCE OF 97.18 FEET (CALLED N 42° W, 96.03) TO A 1/2" IRON ROD FOUND FOR THE WEST CORNER OF THIS TRACT AND THE SOUTH CORNER OF THIS BAUGHAM/CALDERON TRACT, BEING PART OF LOT 147, RECORDED IN VOLUME 534, PAGE 265, OFFICIAL PUBLIC RECORDS, COMAL COUNTY, TEXAS;

THENCE, DEPARTING THE NORTHEAST BOUNDARY LINE OF SAID JERNIGAN TRACT, ALONG THE COMMON LINE OF THIS TRACT AND SAID BAUGHAM/CALDERON TRACT, N 39°24'08" E, A DISTANCE OF 48.07 FEET (CALLED N 38°42' E, 47.85') TO A 1/2" IRON ROD FOUND FOR THE EAST CORNER OF SAID BAUGHAM/CALDERON TRACT AND THE SOUTH CORNER OF THE WELCH TRACT, BEING PART OF LOT 147, RECORDED IN DOCUMENT NO. 9606015405, OFFICIAL PUBLIC RECORDS, COMAL COUNTY, TEXAS;

THENCE, ALONG THE COMMON LINE OF THIS TRACT, AND SAID WELCH TRACT, N 38°46'43" E, A DISTANCE OF 48.5 FEET (CALLED N 38°42' E, 47.85') TO A 1/2" IRON ROD FOUND IN THE AFOREMENTIONED SOUTHWEST RIGHT-OF-WAY LINE OF S. MARKET AVE. FOR THE NORTH CORNER OF THIS TRACT AND THE EAST CORNER OF SAID WELCH TRACT;

THENCE, ALONG THE COMMON LINE OF THIS TRACT AND SAID RIGHT-OF-WAY LINE, S 51°07'27" E, A DISTANCE OF 96.48 FEET (CALLED D 52° E 96.03') TO THE POINT-OF-BEGINNING AND CONTAINING 0.214 OF AN ACRE OF LAND.

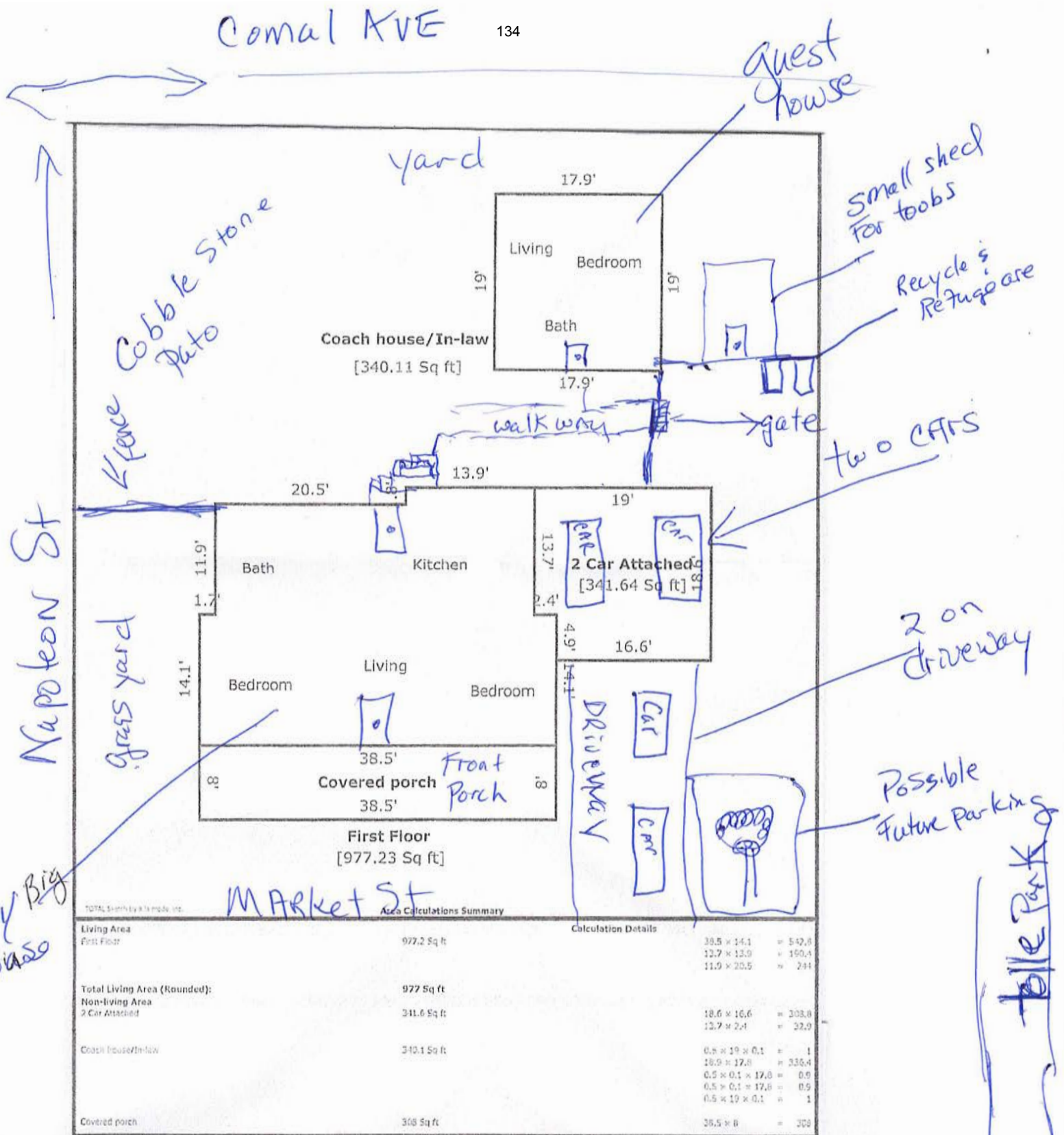


Map Created 6/5/18

PZ-18-015
286 S. Market Ave.
SUP to allow a bed and breakfast in the R-2 district



Legend
 Subject Property



Property back yard fully fenced and Private
 Can accomadate 4 cars in driveway
 286 S. Market - homes are on the
 corner of Market & Napoleon with Comal 4
 houses a way!



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. F)

Presenter

*Stacy Snell, Planning and Community Development Assistant Director
ssnell@nbtexas.org*

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family dwelling in the "C-1" Local Business District, for property addressed at 508 E. San Antonio Street.

BACKGROUND / RATIONALE:

Case No.: PZ-18-018

Council District: 5

Owner/Applicant: Robert (Matt) and Kerri Kyle
3 Centre Court
New Braunfels, TX 78132
(830) 620-9402
mkyle@kylelawfirm.com

Staff Contact: Holly Mullins, Sr. Planner
(830) 221-4054
hmullins@nbtexas.org

The subject property is located on East San Antonio Street near the intersection of South Union Avenue. The property is approximately 14,000 square feet in area and contains a 2,800 square foot single-family residence built in 1919.

The subject property is zoned "C-1" Local Business District which allows rental or occupancy for less than one month. However, the structure on the subject property is a single-family dwelling requiring approval of a Special Use Permit (SUP) before it can be used as a short-term rental. If the SUP is approved, an administrative Short Term Rental Permit will also be required along with annual fire inspections.

The applicant indicates the two-story dwelling has four sleeping areas (bedrooms) allowing for a maximum of 12 adults to occupy the residence. Minimum required off-street parking is one space per sleeping area (4), and the maximum parking is that number plus one (5). The applicant's site plan includes a paved driveway that will accommodate 4 to 5 vehicles. The driveway is long and narrow with parking at the end. Staff created an exhibit (Attachment 3) to demonstrate parking and maneuvering areas that limit the number of vehicles while allowing cars to turn around rather than backing out onto San Antonio Street.

General Information:

Size: = 13,983 square feet (0.321 acres)

Surrounding Zoning and Land Use:

North - Across San Antonio Street, C-1/ Commercial, Retail

South - R-3/ Multifamily

East - C-1/ Commercial, Restaurant

West - C-1 with SUP/ Single-family residence with short term rental

Comprehensive Plan / Future Land Use Designation: Commercial

Floodplain:

No portion of the property is located within the 1% chance (100-year) floodplain.

Regional Transportation Plan:

The subject property has frontage on San Antonio Street, which is classified as a Minor Arterial (up to 120 feet in width). The existing right-of-way is approximately 70 feet wide.

Improvement(s):

Single-family residence

Determination Factors:

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole (*The subject property is zoned C-1 in an area of mixed commercial and residential uses. The property is located within Downtown/Main Street, within a few hundred feet of Prince Solms Park and Schlitterbahn, and a short walk to the Downtown Historic District.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*There do not appear to be any conflicts with these elements.*);
- How other areas designated for similar development will be affected (*There should be no negative impact on other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. (*The use of this property as a short term rental will be subject to the supplemental standards as required in Section 5.17 of the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health and to encourage appropriate use of the property.*); and
- Whether the request is consistent with the Comprehensive Plan. (*Short-term rental of the property is consistent with the Future Land Use designation of the subject site as Commercial.*)

Supplemental standards for short term rentals are attached, and include:

- An administrative Short-Term Rental Permit and annual inspections are required, in addition to the SUP;

- a maximum of two (2) adults per sleeping area plus an additional four (4) adults per residence **(four (4) sleeping areas plus four (4) additional adults allows for a maximum total of 12 adults)**;
- display of a short-term rental decal;
- a minimum of one (1) off-street parking space per sleeping area, not including a garage, and not to exceed the number of sleeping areas plus one (1) **(minimum of four (4) spaces and a maximum of five (5) spaces)**;
- adherence to the City's adopted building codes regarding life safety issues;
- compliance with City codes related to conduct on premises;
- signage in compliance with the current Sign Ordinance (no monument or freestanding pole signs; attached signage is not regulated); and
- required tenant information posted indoors and attached to the rental agreement including quiet hours, parking limitations and emergency information.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

Yes	City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan	Pros: <i>Goal 1 Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities.</i> Authorized short term rentals contribute to economic expansion through the collection of occupancy tax and visitor dollars spent within the community. Impacts to neighbors are managed through the SUP, zoning ordinance standards, any conditions placed on the SUP by City Council, and the Short-Term Rental permitting process.
		<i>Goal 63: Objective B. Special zoning regulations and incentives should be created to promote retail, eating and drinking establishments, bed and breakfast, lodging and entertainment.</i> Approval of the SUP would provide lodging in close proximity to parks, downtown, and other visitor attractions.
		Cons: None

FISCAL IMPACT:

If approved, the property will be subject to local as well as state hotel occupancy tax (HOT).

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on July 3, 2018 and voted unanimously to recommend approval of the applicant's requested SUP with staff recommendations. (8-0-0)

STAFF RECOMMENDATION:

Staff recommends approval of the proposed Type 2 SUP to allow the proposed short-term rental of a single-family dwelling at this location. The proposed use of the property will complement the mixed

uses in the area while maintaining a residential appearance. The proposal also meets Objectives of the City's Comprehensive Plan. Staff's recommendation includes the following conditions:

1. The existing residential character and appearance of the building must be maintained.
2. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.

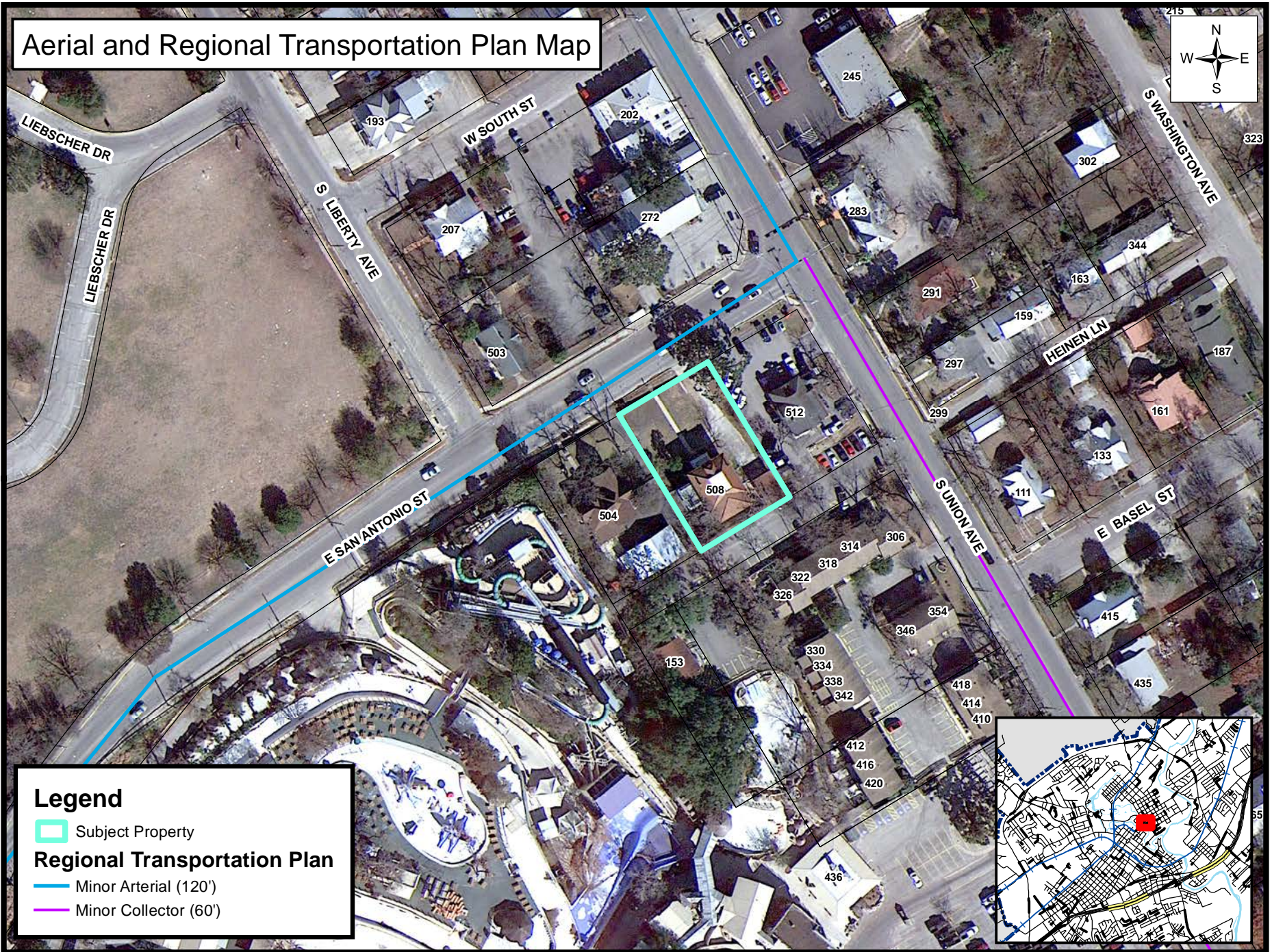
Notification:

Public hearing notices were sent to 16 owners of property within 200 feet of the request. The Planning Division has received six responses in favor (#2, 3, 6, 7, 9, 10) and none in objection.

ATTACHMENTS:

1. Aerial, Regional Transportation Plan Map
2. Application
3. Site Plan, Floor Plan, Parking Exhibit
4. Land Use Maps (Zoning, Existing and Future Land Use, Short-term Rental)
5. Notification Map and Responses
6. Photograph
7. Ordinance Sections:
 - Sec. 3.3-9 "C-1" Local Business District
 - Sec. 3.6 Special Use Permits
 - Sec. 5.17 Short Term Rentals
8. Minutes from Planning Commission
9. Ordinance

Aerial and Regional Transportation Plan Map





City of
New Braunfels

Planning & Community Development Department
Planning Division

550 Landa St. New Braunfels, Tx 78130
(830) 221-4050 www.nbtexas.org

RECEIVED

MAY 22 2018

BY: _____

140

CC/Cash/Check No.: 1244 Case No.: PZ-18-018
Amount Recd. \$ 1532.10
Receipt No.: _____

Submittal date — office use only

Special Use Permit Application to Allow Short Term Rental

Any application that is missing information will be considered incomplete and will not be processed.

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name: Robert Matthew and Kerri Leigh Kyle
Mailing Address: 3 Centre Court, New Braunfels, TX 78130
Telephone: 830.637.6191 Fax: 830.620.5076 ^{WORK} Mobile: 830.620.9402
Email: mkyle@kylelawfirm.com

2. Property Address/Location: 508 E. San Antonio, NB, TX 78130

3. Legal Description:
Name of Subdivision: City block 5042
Lot(s): 3 and 4 Block(s): 5042 Acreage: .321

4. Existing Use of Property: residential

5. Current Zoning: C-1

*Please note Short Term Rentals are prohibited in the following residential districts, & a Special Use Permit could not be requested:

- R-1 • R-3 • TH • R-1A-43.5 • R-1A-8 • R-2A • B-1B • ZH-A
- R-2 • B-1 • ZH • R-1A-12 • R-1A-6.6 • B-1A • TH-A

6. Proposed Special Use Permit*: Type 1 ☒ OR Type 2 ☐

*see page 4 for information regarding Type 1 and Type 2 Special Use Permits

7. Explain how the proposed Short Term Rental use will be well suited for the neighborhood (attach additional or supporting information if necessary):

seasonal rental
for families traveling to NB or needing
a residence for group gatherings or events

[illegible]

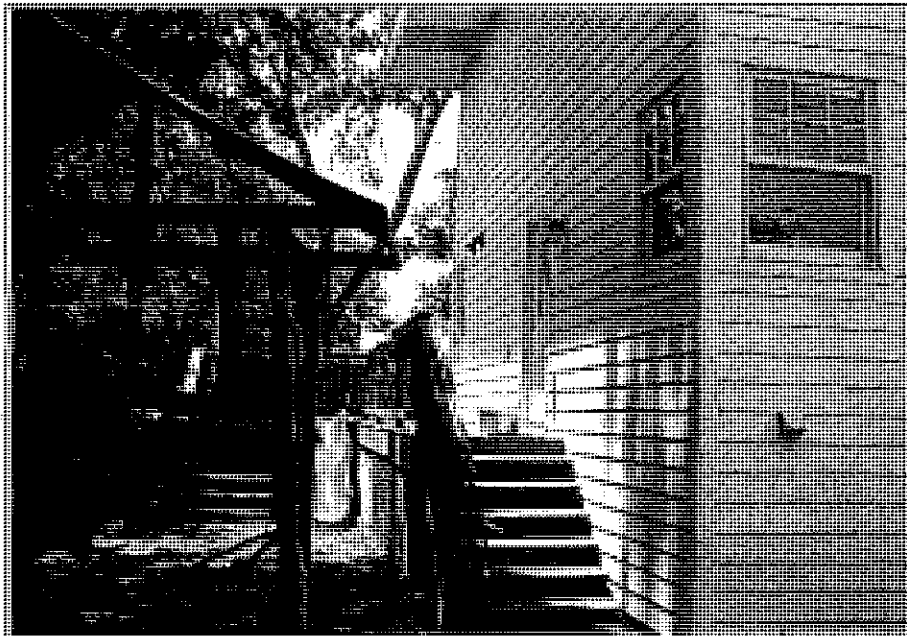
Journal of Management Studies, 19(1), 67-80.

[illegible][illegible][illegible]



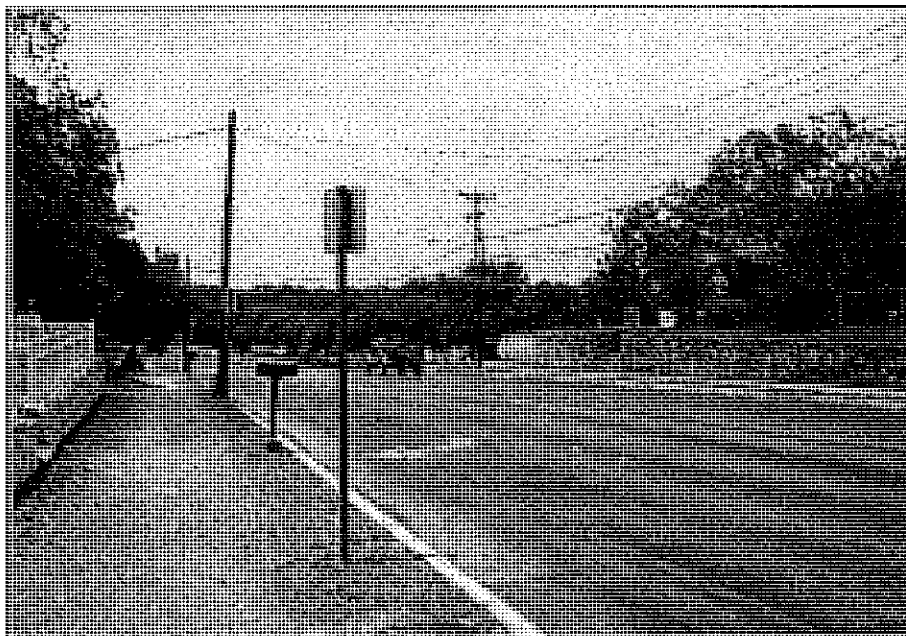
FRONT OF
SUBJECT PROPERTY

Subject Front
508 E San Antonio St
Sales Price: N/A



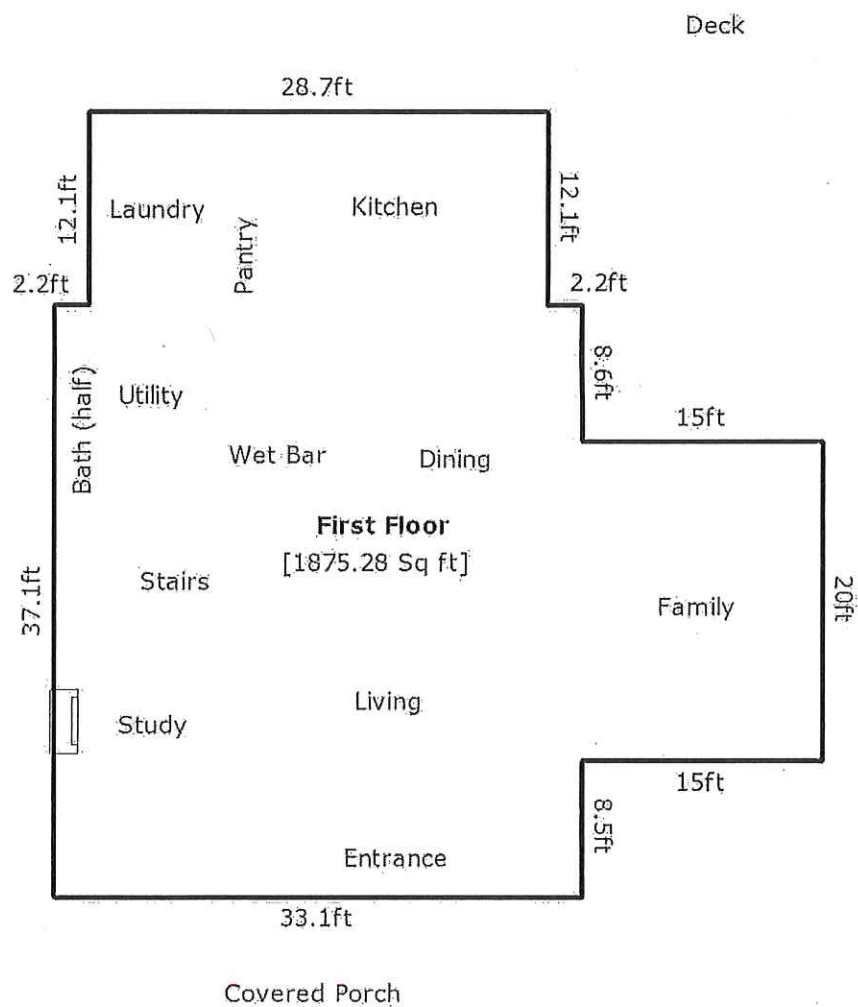
REAR OF
SUBJECT PROPERTY

Subject Rear
508 E San Antonio St
Sales Price: N/A



STREET SCENE

Subject Street
508 E San Antonio St
Sales Price: N/A



Designed by aTo mode, Inc.

Area Calculations Summary

Living Area

First Floor

1875.3 Sq ft

Calculation Details

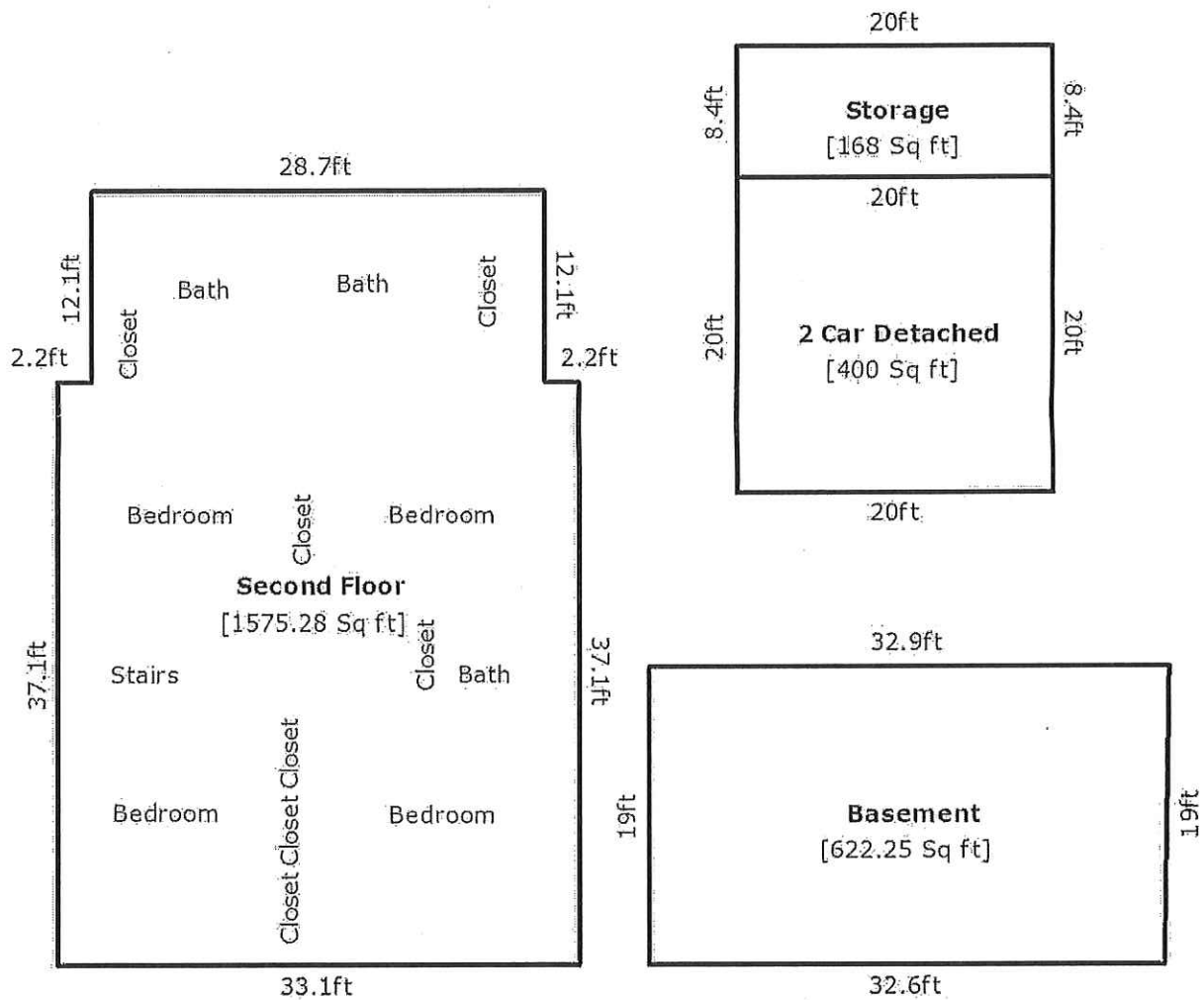
$$28.7 \times 12.1 = 347.27$$

$$20 \times 15 = 300$$

$$37.1 \times 33.1 = 1228.01$$

Total Living Area (Rounded):

1875 Sq ft

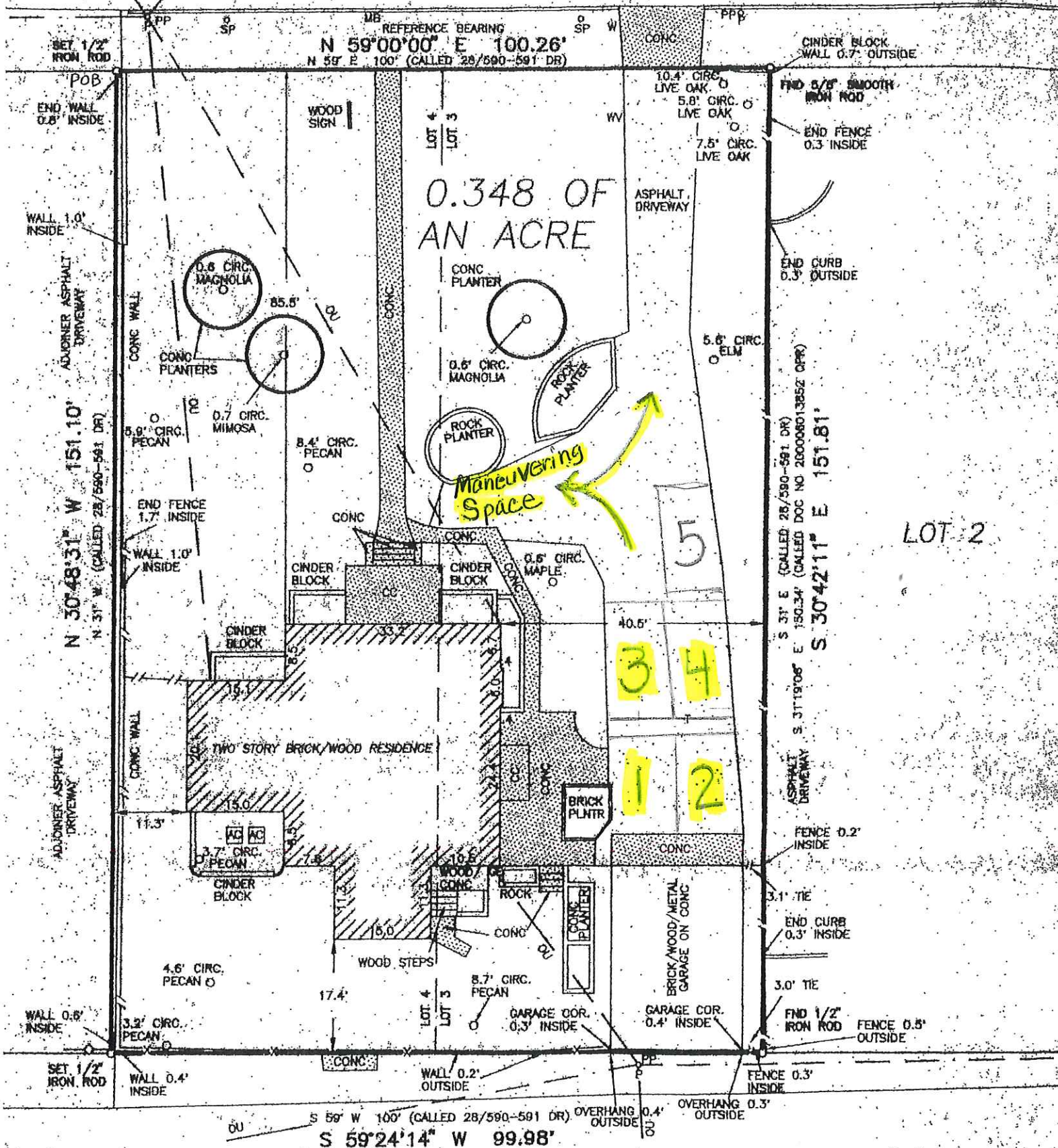


Drawn by a ra mode, inc.

Area Calculations Summary

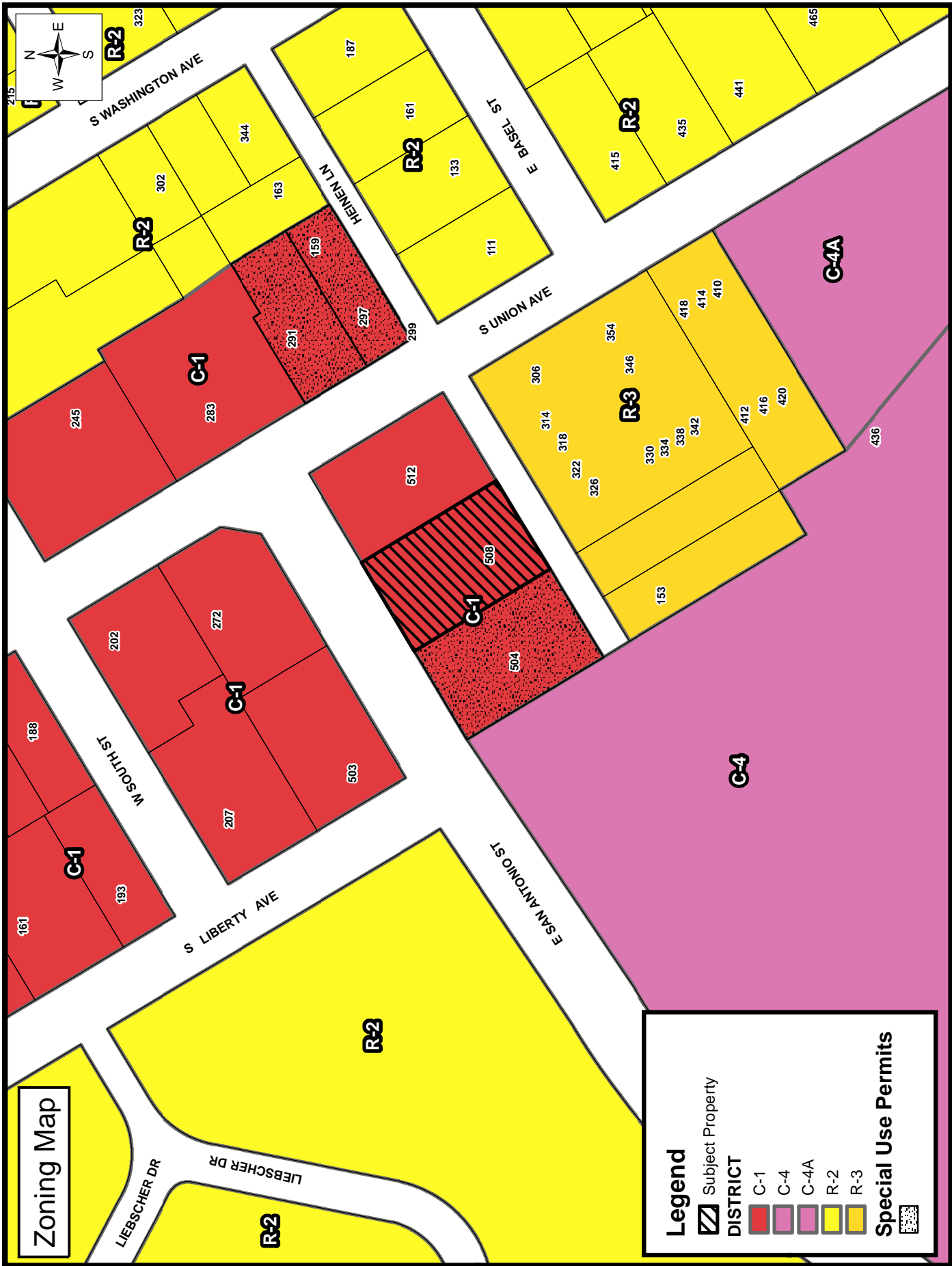
Living Area		Calculation Details	
Second Floor	1575.3 Sq ft	$28.7 \times 12.1 =$	347.27
		$33.1 \times 37.1 =$	1228.01
Total Living Area (Rounded):			
Non-living Area			
Basement	622.3 Sq ft	$19 \times 32.6 =$	619.4
		$0.5 \times 19 \times 0.3 =$	2.85
2 Car Detached	400 Sq ft	$20 \times 20 =$	400
Storage	168 Sq ft	$20 \times 8.4 =$	168

E. SAN ANTONIO STREET (70' ROW)



W. HEINEN LANE (CALLED 20' ALLEY 28/590-591 DR)

LEGEND

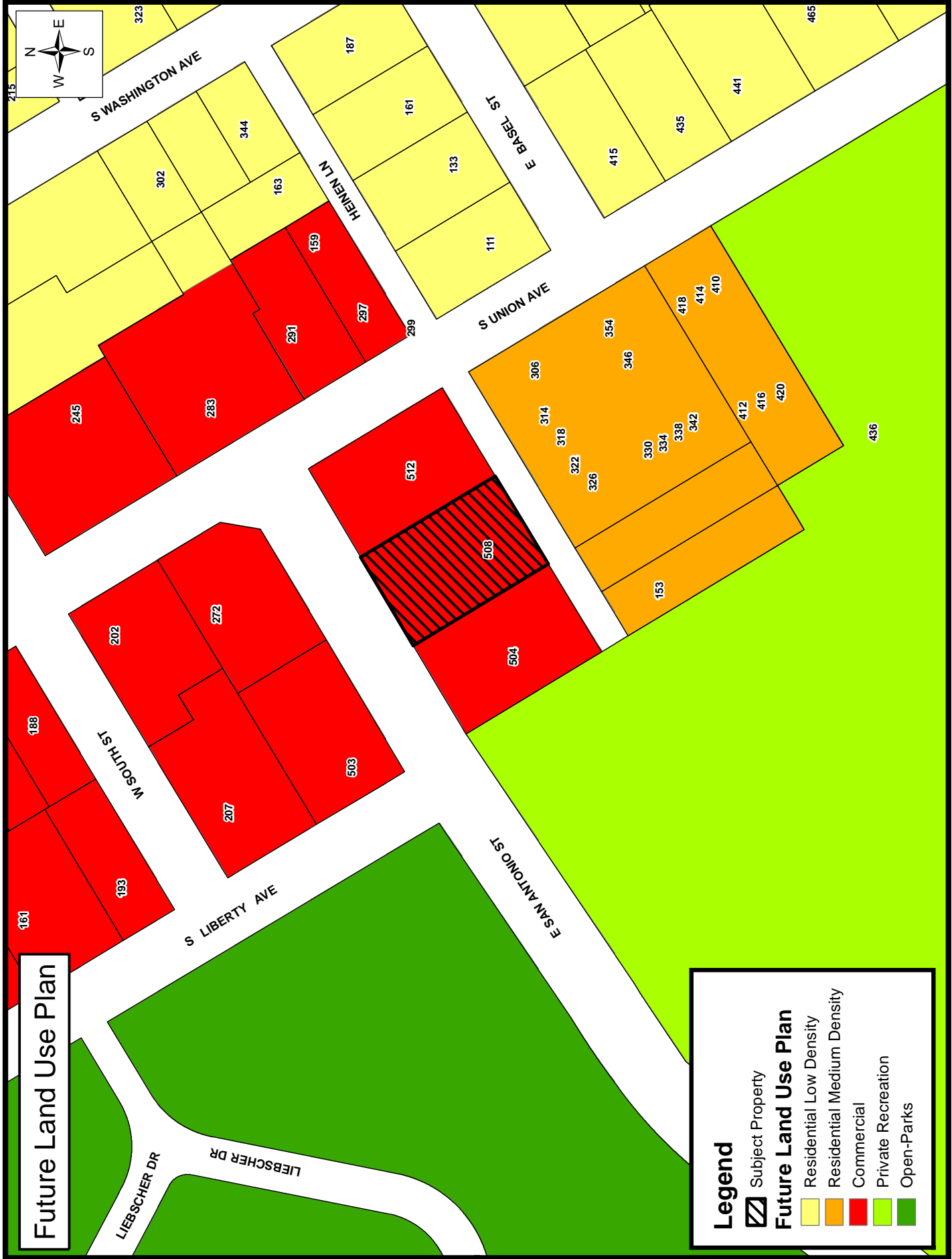


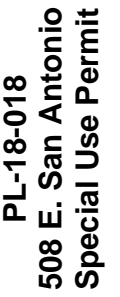


Map Created 6/6/18

PL-18-018
508 E. San Antonio
Special Use Permit







PLANNING COMMISSION – July 3, 2018
City Hall Council Chambers, 550 Landa Street

Address/Location: 508 E. San Antonio – SUP for Short term rental

Applicant: Robert M. & Kerri Leigh Kyle

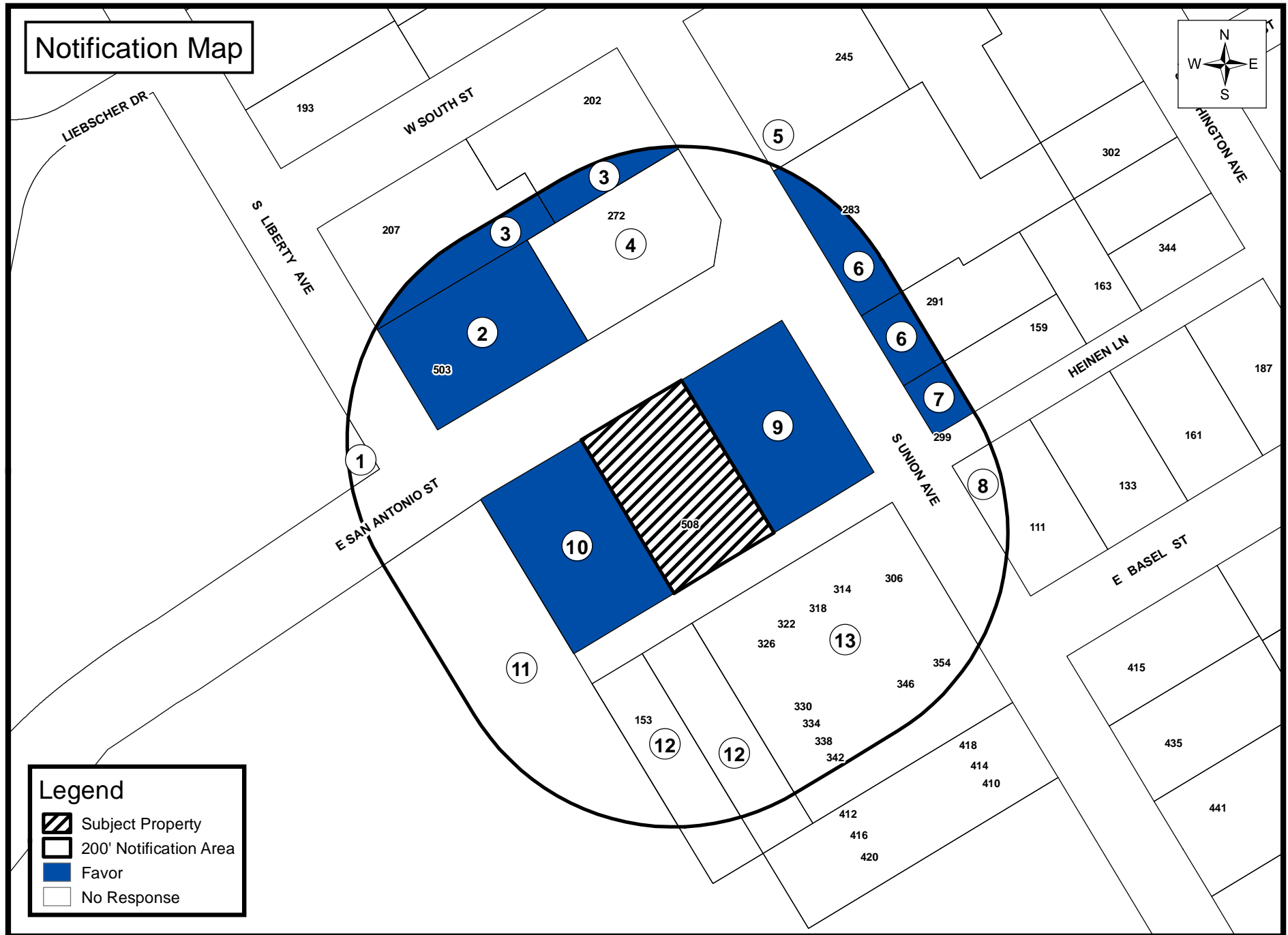
Case #: Z-18-018

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked "Subject."

1. New Braunfels City of
2. Cantrell & Guedry Prop
3. Guedry Carol A & Patricia J Cantrell
4. Heilmann Dinah K et al
5. Espil Sheep Company Inc
6. 283 S Union Series
7. Studdard Still Rutledge LLC
8. Laney Mary Joann
9. Stevens John R Jr & Sandra W
10. Hooper Monty A & Tasha D
11. Liberty Partnership Ltd
12. Henry Walnut Ltd
- 13a. Henry Condo I Ltd
 - b. Clauss John & Paola
 - c. Dietert Jacquelyn
 - d. West Linda L

SEE NOTIFICATION MAP

Notification Map



YOUR OPINION MATTERS - DETACH AND RETURN

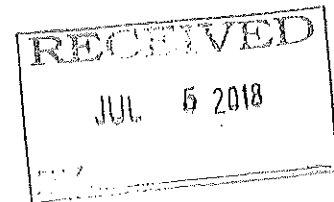
Case: #PZ-18-018 hm

Name: CANTRELL & GUEORG PROPERTIESAddress: 222 S. UNION 503 E. SAN ANTONIO STProperty number on map: 2I favor: ☒

I object: _____

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: Carol L. Gueorg

YOUR OPINION MATTERS - DETACH AND RETURN

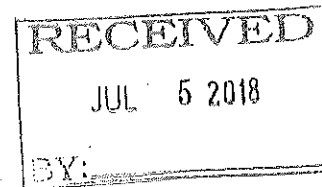
Case: #PZ-18-018 hm

Name: CAROL GUEORG & PATRICIA CANTRELLAddress: 202 S. UNION & 207 LIBERTYProperty number on map: 3I favor: ☒

I object: _____

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: Carol L. Gueorg

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-018 hm

Name: WES STUDDARDAddress: 297 & 291 S. UNION ST.Property number on map: #6 #7

Comments: (Use additional sheets if necessary)

I favor: ✓

I object: _____

(State reason for objection)

Signature: Wes Studdard

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-018 hm

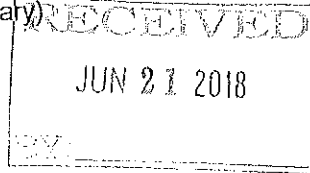
Name: Union Station DinerAddress: 512 E. San Antonio St.Property number on map: 9

Comments: (Use additional sheets if necessary)

I favor: ✓

I object: _____

(State reason for objection)

Signature: JB Stuep

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-018 hm

Name: Union Station DinerAddress: 512 E. San Antonio St.Property number on map: 10

Comments: (Use additional sheets if necessary)

I favor: ✓

I object: _____

(State reason for objection)

Signature: [Signature]



3.3-7. "C-1" local business district. The following regulations shall apply in all "C-1" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Assisted living facility/retirement home
- Boardinghouse/lodging house
- Community home (see definition)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home Occupation (see Sec. 5.5)
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Rental or occupancy for less than one month (see Sec. 5.17)
- Residential use in buildings with the following non-residential uses
- Single or two family industrialized home (see Sec. 5.8)

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care with overnight stay
- Ambulance service (private)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Automobile driving school (including defensive driving)
- Bakery (retail)
- Bank, savings and loan, or credit union
- Bar/Tavern (No outdoor music)
- Barber/beauty college (barber or cosmetology school or college)
- Barber/beauty shop, haircutting (non-college)
- Barns and farm equipment storage (related to agricultural uses)
- Battery charging station
- Bicycle sales and/or repair
- Book binding
- Book store
- Cafeteria / café / delicatessen
- Campers' supplies
- Cemetery and/or mausoleum
- Check cashing service
- Child day care/children's nursery (business)
- Church/place of religious assembly
- Cleaning, pressing and dyeing (non-explosive fluids used)
- Clinic (dental)
- Clinic (medical)

Clinic (emergency care)
 Club (private)
 Coffee shop
 Communication equipment (installation and/or repair)
 Community building (associated with residential uses)
 Computer and electronic sales
 Computer repair
 Consignment shop
 Contractor's temporary on-site construction office (with permit from Building Official; Sec. 5.10)
 Convenience store with or without fuel sales
 Country club (private)
 Credit agency
 Curio shops
 Custom work shops
 Day camp
 Department store
 Drapery shop / blind shop
 Drug sales/pharmacy
 Electrical repair shop
 Electrical substation
 Exterminator service
 Farmers market (produce market - wholesale)
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)
 Filling station (fuel tanks must be below the ground)
 Florist
 Food or grocery store with or without fuel sales
 Fraternal organization/civic club (private club)
 Frozen food storage for individual or family use
 Funeral home/mortuary
 Furniture sales (indoor)
 Garden shops and greenhouses
 Golf course (miniature)
 Golf course, public or private
 Governmental building or use with no outside storage
 Greenhouse (commercial)
 Handicraft shop
 Hardware store
 Health club (physical fitness; indoors only)
 Hospice
 Hospital, general (acute care/chronic care)
 Hospital, rehabilitation
 Hotel/motel
 Hotels/motels - extended stay (residence hotels)
 Ice delivery stations (for storage and sale of ice at retail only)
 Kiosk (providing a retail service)
 Laundromat and laundry pickup stations
 Laundry/dry cleaning (drop off/pick up)
 Laundry/washateria (self serve)
 Lawnmower sales and/or repair
 Locksmith
 Martial arts school
 Medical supplies and equipment
 Mini-warehouse/self storage units (no boat / RV storage permitted; no outside storage)
 Motion picture studio, commercial film
 Motion picture theater (indoors)

Museum
 Needlework shop
 Nursing/convalescent home/sanitarium
 Offices, brokerage services
 Offices, business or professional
 Offices, computer programming and data processing
 Offices, consulting
 Offices, engineering, architecture, surveying or similar
 Offices, health services
 Offices, insurance agency
 Offices, legal services - including court reporting
 Offices, medical offices
 Offices, real estate
 Offices, security/commodity brokers, dealers, exchanges and financial services
 Park and/or playground (public or private)
 Parking lots (for passenger car only) (not as incidental to the main use)
 Pawn shop
 Pet shop / supplies (10,000 sq. ft. or less)
 Photographic printing/duplicating/copy shop or printing shop
 Photographic studio (no sale of cameras or supplies)
 Photographic supply
 Plant nursery (growing for commercial purposes with retail sales on site)
 Plant nursery (retail sales / outdoor storage)
 Plumbing shop
 Public recreation/services building for public park/playground areas
 Radio/television shop, electronics, computer repair
 Recreation buildings (public)
 Refreshment/beverage stand
 Restaurant/prepared food sales
 Restaurant with drive through service
 Retail store and shopping center with drive through service (50,000 sq. ft. bldg. or less)
 Retirement home/home for the aged
 School, K-12 (public or private)
 School, vocational (business/commercial trade)
 Security monitoring company
 Shoe repair shops
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
 Studio for radio or television (without tower)
 Tailor shop (see home occupation)
 Telecommunications towers/antennas (see Sec. 5.7)
 Telemarketing agency
 Telephone exchange buildings (office only)
 Theater (non-motion picture; live drama)
 Tool rental
 Travel agency
 University or college (public or private)
 Upholstery shop (non-auto)
 Vacuum cleaner sales and repair
 Video rental / sales
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system
 Woodworking shop (ornamental)

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) Non-residential uses.

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than six feet shall be provided.

(iv) *Rear building setback.* 20 feet.

(v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* The minimum width of a lot shall be 40 feet, provided that where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirement will not prohibit the construction of a use enumerated in this district.

(vii) *Corner lots.* A minimum 25-foot front yard and side building setback adjacent to streets shall be required on all corner lots. A canopy at least six feet in height, attached to the main building, may be built within 15 feet of the street line so long as such construction is not supported by columns which will obstruct the vision of vehicles driving upon adjacent streets.

(viii) *Parking.* See Section 5.1. for permitted uses parking.

(2) One family dwellings.

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one family detached dwelling. See Section 5.1 for other permitted uses' parking.

(3) Duplexes.

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Section 5.1 for other permitted uses' parking.

(4) Multifamily dwellings.

(i) *Height.* 35 feet; 50 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the City Sanitarian.

(ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit . . . 1 1/2 spaces
2. Two-bedroom apartment or unit . . . 2 spaces
3. Each Additional bedroom . . . 1/2 space
4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

See Section 5.1 for other permitted uses' parking.

3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

Types of Special Use Permit:

Type 1. Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

Type 2. Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
 - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
 - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
 - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
 - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - (7) Required yards and open space;
 - (8) Height and bulk of structures;
 - (9) Hours of operation;
 - (10) Paving of streets, alleys, and sidewalks,
 - (11) Provisions for drainage,
 - (12) Exterior construction material and building design; and
 - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).

3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:

- (a) Construction is not begun within five years of the date of approval of the permit.
- (b) Progress toward completion is not being made. Progress toward completion includes the following:
 - (1) An application for a final plat is submitted;
 - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
 - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;

- (4) Security is posted with the city to ensure performance of an obligation required by the city; or
 - (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
- (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
- (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
- (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
- (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
 - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
 - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
- (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
- (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
- (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

5.17. *Short term rental or occupancy.*

5.17-1 Purpose This section is intended to provide a procedure to allow the rental of private residences to visitors on a short-term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

5.17-2 *Definitions:*

"Adult" means an individual 17 years of age or older.

"Bedroom" means a room designated and used primarily for sleeping and rest on a bed.

"Floodway" means the channel for a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Non-Residential District" means the following zoning districts: R-3, R-3L, R-3H, MU-A, MU-B, C-1, C-1A, C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, C-O, M-1, M-1A, and M-2A. This includes all subsequently approved Special Districts identified as Non-Residential unless otherwise specified within the Special District.

"Occupant" means the person or persons who have rented the Short Term Rental and their guest(s).

"Operator" means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit who is the proprietor of a Short Term Rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, license or any capacity. Where the operator performs his or her functions through a managing agent of any type of character, other than an employee, or where the operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

"Owner" means the person or entity that holds legal and/or equitable title to the private property.

"Residential District" means the following zoning districts: R-1, R-1A-43.5, R-1A-12, R-1A-8, R-1A-6.6, R-2, R-2A, B-1, B-1A, B-1B, TH, TH-A, ZH, ZH-A and SND-1. This includes all Special and Planned Development Districts identified as Residential unless otherwise specified within the Special District.

"Resort Condominiums" means a form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned and rented out for use of persons for less than 30 days while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

"Resort Property" means a compound of buildings and facilities located together that provides lodging, entertainment and a relaxing environment to people on vacation. This includes 24 hour security and 24 hour front desk personnel. These units comply with all commercial building code standards.

"Short Term Rental" means the rental for compensation of one- or two -family dwellings, as defined in the IRC (International Residential Code), for the purpose of overnight lodging for a period of not less than one (1) night and not more than thirty (30) days other than ongoing month-to-month tenancy granted to the same renter for the same unit. This is not applicable to hotels, motels, bed and breakfasts, resort properties as defined in this ordinance or resort condominiums.

"Short Term Rental Decal" means the decal issued by the City as part of a Short Term Rental permit that identifies the subject property as a Short Term Rental, the Short Term Rental permit number, the owner or rental agent's name and 24-hour emergency contact phone number of either the owner or the rental agent.

"Sleeping Area" means a room or other space within a Dwelling designed or used for sleeping, including a Bedroom. Tents and Recreational Vehicles shall not be considered a Sleeping Area.

5.17-3 Applicability.

- (a) Short Term Rental within Residential Districts is prohibited.
- (b) Short Term Rental is prohibited in any floodway located within the city limits, regardless of zoning district.
- (c) A Short Term Rental Permit is required prior to the use of a one family or two family dwelling as a Short Term Rental located within a Non-Residential District. Subject to Subsection (d), Standards, of this Section, an Owner shall obtain and maintain a current permit whenever a dwelling is used as a Short Term Rental. Annual inspection is required as specified in Subsection (f), Inspections, of this Chapter. A Special Use Permit is required in all zoning districts except C-4, C-4A and C-4B.
- (d) Within one hundred and eighty (180) days of the effective date of this Ordinance, the Owner or Operator of each existing legally established short term rental shall apply for and pay the permit fee for a Short Term Rental Permit. Within forty-five (45) days of receipt of a completed application, the permit fee and compliance with Subsection (e), Short Term Rental Permit, of this Section, a permit shall be issued to the Owner or Operator that will be good for one (1) year from the date issued and subject to the annual renewal inspection by the Fire Marshal. Ability to approve said permit is predicated on verification that the short term rental is in compliance with Section 2.3(b, c, d), Nonconforming Use.

5.17-4 Standards. All Short Term Rentals permitted pursuant to this Chapter are subject to the following standard requirements:

- (a) **Occupancy.** The maximum number of persons allowed to reside in a Short Term Rental is two (2) adults per Sleeping Area plus an additional four (4) adults per residence.
- (b) **Short Term Rental Decal Display.** As part of a Short Term Rental Permit, the City issued Short Term Rental Decal shall be posted on the front of each Short Term Rental in a location that is accessible and legible to an individual at the entry of the Short Term Rental.
- (c) **Parking.** A minimum of one (1) off-street parking space, not including the garage, per Sleeping Area shall be provided with a minimum of two (2) and a maximum not to exceed the number of Sleeping Areas plus one (1). No required parking shall be permitted within public right-of-way or access easements as defined by City and State regulations regarding parking.
- (d) **Life Safety.**
 - (1) All building and fire related construction shall conform to the City's adopted IRC (International Residential Code) building code.
 - (2) A 2A:10B:C type fire extinguisher (a standard 5 lb. extinguisher) shall be properly mounted within 75 feet of all portions of the structure on each floor.
 - (3) Every sleeping room shall have at least one operable emergency escape and rescue opening.
 - (4) An evacuation plan posted conspicuously in each Sleeping Area.
 - (5) Every bedroom / sleeping area in a Short Term Rental that does not comply with Subsection (d)(4), Life Safety, of this Section shall not be used as a Sleeping Area and where equipped with a door, shall remain locked at all times when the Dwelling is being

used as a Short Term Rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the Short Term Rental. The owner / operator shall notify every Occupant, in writing, that the non-compliant Sleeping Area may not be used for sleeping.

(e) *Conduct on premises.*

- (1) Each occupant and visitor to a Short Term Rental shall comply with all applicable provisions of the City's Code, including, without limitation: noise and disorderly conduct restrictions from Chapter 82, Offenses and Miscellaneous Provisions; litter prohibition from Chapter 50, Environment; and others such as parking, and trespassing provisions. No occupant of or visitor to a Short Term Rental shall cause or permit a public nuisance to be maintained on such property. This information shall be included in the rental agreement and inside the Short Term Rental as specified in Subsection (7), Tenant Indoor Notification, below.
- (2) All Occupants shall be informed in writing of relevant City ordinance including, but not limited to, the City's nuisance and water conservation ordinances by the Owner/Operator of the Short Term Rental.
- (3) Excessive noise or other disturbance outside the Short Term Rental is prohibited between the hours of 10:00 p.m. and 8:00 a.m. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
- (4) No sleeping outdoors.

(f) *Signage.* Signage shall be in compliance with the City's current Sign Code.

(g) *Tenant Indoor Notification.* The Operator shall post in a conspicuous location of the Dwelling the following minimum information:

- (1) Maximum number of occupants.
- (2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas.
- (3) Quiet hours and noise restrictions.
- (4) Restrictions of outdoor facilities.
- (5) 24 hour contact person and phone number.
- (6) Property cleanliness requirements.
- (7) Trash pick-up requirements, including location of trash cans.
- (8) Flooding hazards and evacuation routes. Including information on the emergency siren system.
- (9) Emergency numbers.
- (10) Notice that failure to conform to the occupancy and parking requirements is a violation of the City's Municipal Code and occupant or visitor can be cited.
- (11) Other useful information about the community.

(h) *Rental Agreement Notification.* The rental agreement between the owner/operator of the Short Term Rental and the occupant shall include by attachment, all of the information provided on the Tenant Indoor Notification signage.

5.17-5 *Short Term Rental Permit.*

(a) *Application.* Application for a Short Term Rental Permit shall be in writing on an application form available in the Planning Director's office, shall be accompanied by a one-time payment of the fee of \$50 and shall include the following information, at a minimum:

- (1) A list of all Owners of the short term rental including names, address and telephone numbers.
- (2) A sketch or narrative describing the location of the available parking spaces as required by Subsection d(3), Parking, of this Section.
- (3) A sketch of the floor plan.
- (4) The name, address and 24 hour telephone numbers of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the Short Term Rental.
- (5) Proof of Hotel Occupancy Tax compliance with Chapter 351 of the Tax Code, before permit is granted.

- (6) A statement that the Owner of the Short Term Rental has met and will continue to comply with the standards and other requirements of this Ordinance.
- (7) Provide current email address of Owner/Operator, if applicable.
- (8) If Owner/Operator has a property management or agent, Owner/Operator shall provide property management or agent phone number, mailing address and email address.
- (b) *Completeness of Application.* If the application is incomplete or the full fee has not been paid, the Planning Director shall notify the applicant in writing, within 10 business days of the date of the application, that the application is incomplete and will not be considered by the City until the application is complete and/or the full fee is paid. If the full fee is not paid or the application is not complete within 45 days of the date of the application, the application shall expire.
- (c) *Annual Renewal.* A Short Term Rental Permit will be renewed annually through an inspection conducted by the Fire Marshal to verify continued compliance with Subsection 17-4, Standards, of this Section.
- (d) *Transferability.* A Short Term Rental Permit is transferable to a new property owner, if the new property owner submits a Short Term Rental Permit application and agrees in writing to comply with the requirements of this Ordinance. A new Owner must apply for a Short Term Rental Permit within ninety (90) days from the closing date of the purchase. The new Owner must provide a copy of the closing statement with the Short Term Rental Permit application form. Failure of the new property owner to apply for permit within ninety (90) days from the closing date will revoke the Short Term Rental Permit. Short Term Rentals existing prior to the effective date of this ordinance that are non-conforming to the zoning for which property is located, but obtained a permit in compliance with Subsection 17-3(d), Applicability, shall become null and void if the new Owner fails to apply for the Short Term Rental Permit within ninety (90) days from the date of the deed of the new Owner's purchase.
- (e) *Appeal.* If an application for a Short Term Rental Permit or renewal is denied, the Owner or Operator may appeal to the Planning and Zoning Commission by written notice delivered within thirty (30) days of denial or revocation.

5.17-6 Inspections. To ensure continued compliance with the requirements of this Section a Short Term Rental shall be inspected in the following methods:

- (a) *Transfer Inspection.* As part of the transfer of a Short Term Rental Permit to a new Owner, in accordance with Subsection (e)(4), Transferability, and the issuance of a new Short Term Rental Permit the City's Fire Marshal shall conduct an inspection to verify compliance with this Ordinance.
- (b) *Fire Extinguishers.* The Owner/Operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the City's current Fire Code.
- (c) *Immediate Inspection.* The City will perform inspections immediately when a violation is suspected.
- (d) *Annual Fire Inspection.* The City's Fire Marshal's Office will perform annual inspections for compliance with this Ordinance.

5.17-7 Enforcement/Penalty.

- (a) *Emergency Contact.* The Owner/Operator of the Short Term Rental shall provide the City with a twenty-four (24) hour contact number. Should a law enforcement officer respond to the Short Term Rental and issue a citation for any violation of City Ordinances, the Owner/Operator shall be called by the officer. The Owner/Operator shall attempt to contact the occupants within one hour of the call to address the occupants about the complaints. Should a second complaint be filed and citation issued to any part of the occupants or guests, the Owner/Operator must take appropriate step, in accordance with the individual rental agreement, to assure future complaints do not occur. Should three (3) separate citations be issued to an occupant or their guest(s), involving separate occupants under separate rental agreements within a six (6) month period, the Short Term Rental Permit may be revoked in accordance with the revocation process specified in Subsection (h), Revocation.
- (b) Violations of any Subsection of this Section may revoke the Short Term Rental Permit in accordance with Subsection (h), Revocation.

- (c) Failure to pay Hotel Occupancy Tax timely is considered a violation of this Section and may result in revocation of the Short Term Rental Permit in accordance with Subsection (h), Revocation. Owner shall have 30 days from the date the City or State issue a notice of delinquency to submit delinquent Hotel Occupancy Tax to City and State before revocation of the Short Term Rental Permit begins.
- (d) Failure to successfully complete the renewal process of a Short Term Rental Permit is considered a violation of this Section. Owner shall have 45 days from the date City issues notice of denial to gain compliance of noncompliant items before the revocation of the Short Term Rental Permit begins.
- (e) The provisions of this Subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by City Ordinances or County or State Law.
- (f) *Proof.* Prima facie proof of occupancy of a Dwelling is established in any prosecution for violation of this Section if it is shown that vehicles with registrations to persons having different surnames and addresses were parked overnight at the Dwelling. Establishment of a prima facie level of proof in this Subsection does not preclude a showing of illegal "occupancy" of a Dwelling by a person in any other manner.
- (g) *Offense.* It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this Ordinance 144-5.17. Each day that a unit is occupied in violation of this ordinance shall be considered a separate offense, and, upon conviction, shall be subject to a minimum fine of \$500.00 to a maximum fine of \$2,000.00 per violation.
- (h) Each day of violation of said Standards and provisions of this Section constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.

5.17-8 *Revocation.* If any violations stated in Subsection (g), Enforcement/Penalty, of this Section have been committed and not corrected within the time specified the Planning Director shall begin the procedures to revoke the Short Term Rental Permit in accordance with the following:

- (a) The City shall give thirty (30) day written notice to the Owner/Operator regarding the public hearing date and recommendation by the Planning Commission, and public hearing and decision by the City Council.
- (b) The City shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the hearing.
- (c) If a Short Term Rental Permit is revoked, the Owner/Operator may not reapply for the same property for a period of twelve (12) months.

5.17-9 *Abrogation and Greater Restrictions.* This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW SHORT TERM RENTAL OF A SINGLE-FAMILY DWELLING IN THE “C-1” LOCAL BUSINESS DISTRICT, ON LOTS 3 & 4, CITY BLOCK 5042, ADDRESSED AT 508 EAST SAN ANTONIO STREET; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

WHEREAS, the City also recognizes that granting such a permit is possible while promoting the health, safety, and general welfare of the public, by providing harmony between existing zoning districts and land uses; and

WHEREAS, it is the intent of the City to ensure for the health, safety and general welfare of the public by providing compatibility and orderly development, which may be suitable only in certain locations in a zoning district through the implementation of a Special Use Permit meeting those requirements cited in Sections 3.6-2 and 3.6-3, Chapter 144, of the New Braunfels Code of Ordinances; and

WHEREAS, the property is located in an area suitable for short term rentals; and

WHEREAS, the City Council desires to grant a Type 2 Special Use Permit for Lots 3 and 4, City Block 5042, addressed at 508 East San Antonio Street, to allow the short-term rental of a single-family dwelling in the “C-1” Local Business District; **now therefore**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following described tract of land as a "Special Use Permit" for the uses and conditions herein described:

“Being Lots 3 and 4, City Block 5042, addressed at 508 East San Antonio Street, as delineated in the attached Exhibit ‘A’, to allow the short-term rental of a single-family dwelling in the “C-1” Local Business District.”

SECTION 2

THAT the Special Use Permit be subject to the following additional restrictions:

1. The existing residential character and appearance of the building must be maintained.
2. The property will remain in compliance with the approved site plat attached as Exhibit 'B'. Any significant changes to the site plan will require a revision to the SUP.

SECTION 3

THAT all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 23rd day of July, 2018.

PASSED AND APPROVED: Second Reading this the 13th day of August, 2018.

CITY OF NEW BRAUNFELS

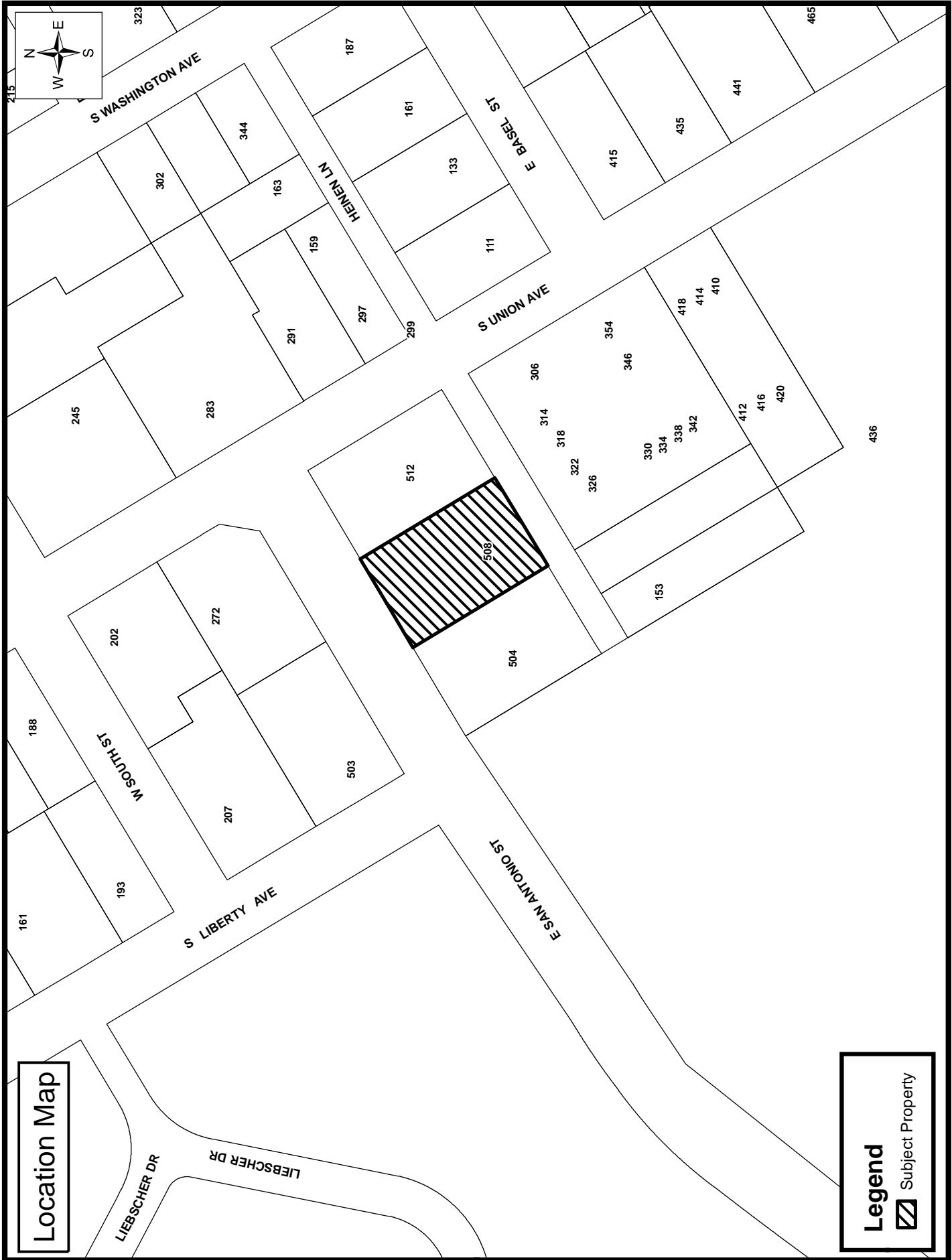
BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

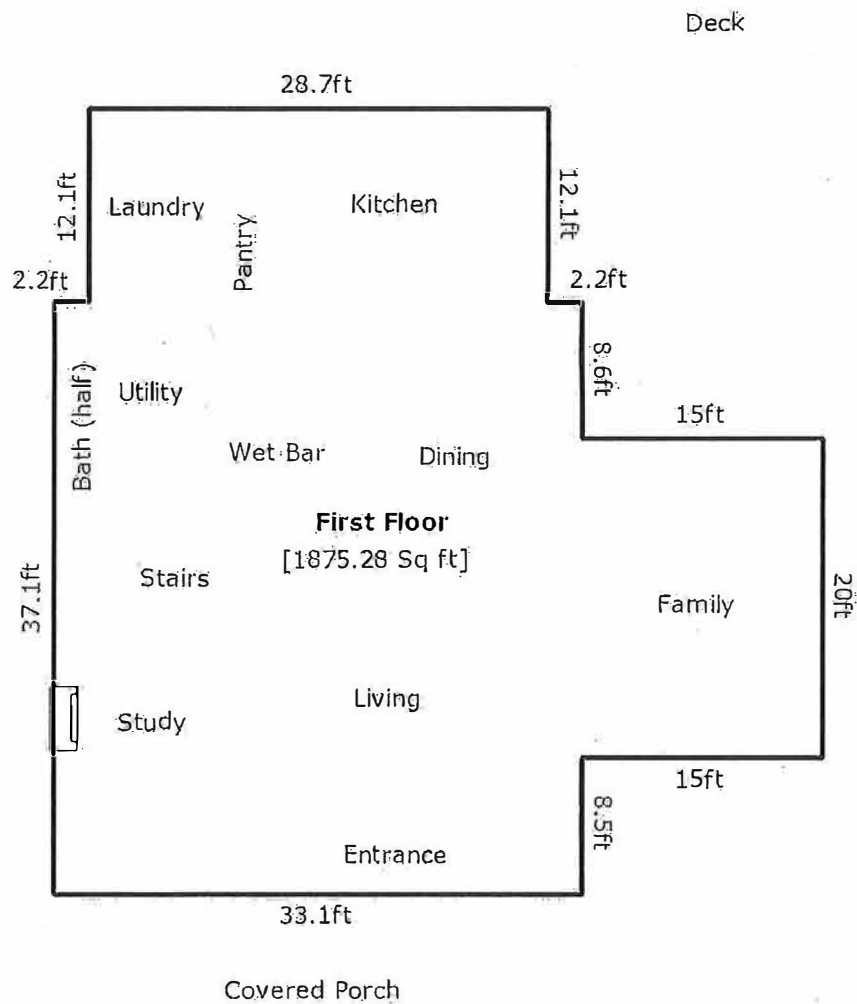
APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney



PL-18-018
 508 E. San Antonio
 Special Use Permit





Designed by aTo mode, Inc.

Area Calculations Summary

Living Area
First Floor

1875.3 Sq ft

Calculation Details

28.7 × 12.1 = 347.27
 20 × 15 = 300
 37.1 × 33.1 = 1228.01

Total Living Area (Rounded):

1875 Sq ft

EXHIBIT "B"

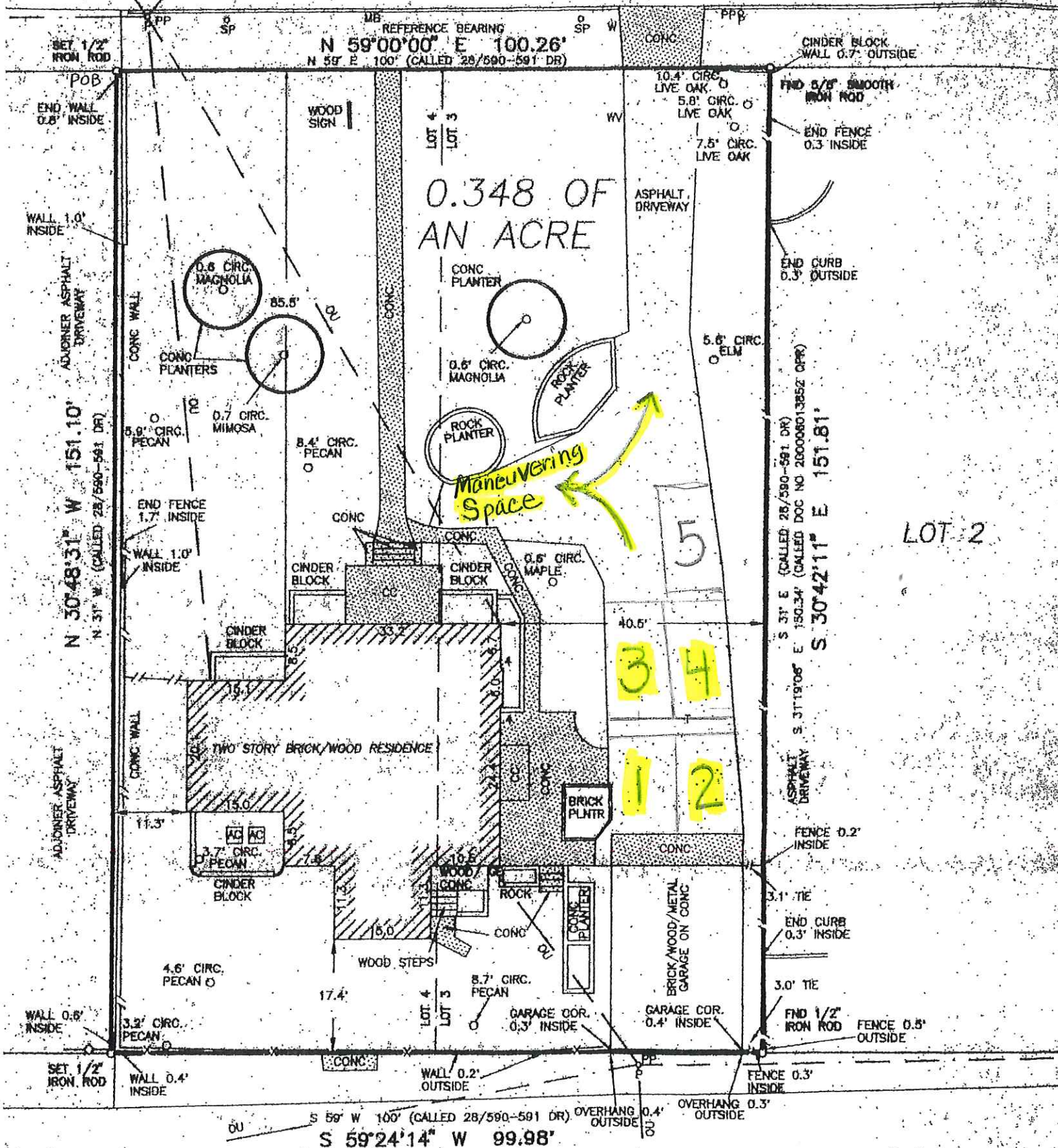


Drawn by a ra mode, inc.

Area Calculations Summary

Living Area		Calculation Details	
Second Floor	1575.3 Sq ft	$28.7 \times 12.1 =$	347.27
		$33.1 \times 37.1 =$	1228.01
Total Living Area (Rounded):	1575 Sq ft		
Non-living Area			
Basement	622.3 Sq ft	$19 \times 32.6 =$	619.4
		$0.5 \times 19 \times 0.3 =$	2.85
2 Car Detached	400 Sq ft	$20 \times 20 =$	400
Storage	168 Sq ft	$20 \times 8.4 =$	168

E. SAN ANTONIO STREET (70' ROW)





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. A)

Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:

- Project Rethread
- Project Connect



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. B)

Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code

- Flood Mitigation Properties



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

7/23/2018

Agenda Item No. C)

Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:

- Gruene Texas 90, LLC